ANNUAL REPORT 2005

BRITISH COLUMBIA

Labour Relations Board

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BRITISH COLUMBIA

LABOUR RELATIONS BOARD

2005
ANNUAL REPORT

Ministry of Labour and Citizens' Services
Honourable Michael de Jong, Minister

March 31, 2006

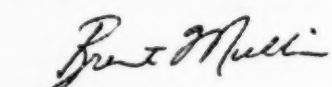
The Honourable Michael de Jong
Minister of Labour and Citizens' Services
Parliament Buildings
Victoria, B.C.
V8V 1X4

Dear Mr. Minister:

RE: Labour Relations Board 2005 Annual Report

I am pleased to forward the 2005 Annual Report of the Labour Relations Board for the year ended December 31, 2005. This Report has been prepared for your review pursuant to Section 157(2) of the *Labour Relations Code*.

Yours truly,
LABOUR RELATIONS BOARD



Brent Mullin
Chair

Enclosure

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CHAIR'S MESSAGE

In the 2004's Chair's Message, I set out in summary form the unique history of legislative reform which has produced a new framework for labour relations in the British Columbia Labour Relations Code. Critically, the perceived need for that reform, and its ultimate legislative expression in the 1993 and 2002 amendments, has come from both sides of the political spectrum.

The thrust of the new framework was captured in one of the Board's decisions ensuring the re-opening of a mine in British Columbia:

> The re-opening of the mine as a viable business would be in the interests of local workers who need the jobs the mine would provide, the union who will represent those employees, the Employer, and the local community which will benefit from the employment and the economic multiplier effect of it re-opening. Section 2 directs the Board to consider all these interests in interpreting and applying the provisions of the Code.
>
> Labour relations under the Code is intended to further, balance, and contribute to the success of these interests. In the Code, collective bargaining is recognized as an important societal institution which should be a vehicle for success, not failure. Labour relations under the Code needs to be a system which drives and achieves successful outcomes. (*Taseko Mining Ltd.*, BCLRB No. B299/2004 (Leave for Reconsideration of BCLRB No. B218/2004), paras. 12-13).

While the traditional approach to labour relations being followed by the parties was faltering, the new approach in the Code applied by the Board successfully ensured the re-opening of the mine, with all its attendant benefits.

The new framework creates an environment for labour relations in British Columbia which includes being responsive to the realities of market demands in order to be successful; recognizing the need for flexibility and creativity to find practical solutions leading to success; and the importance of creating an environment which will encourage investment in technology and training, both of which are critical for the productivity essential to success.

The new framework requires that we think differently than we have in the past, that we focus on problem solving, innovation, and success, rather than confrontation. We need to let go of the past, as in the mine re-opening case, in order to ensure success and the future. In a number of cases in 2005, the Board thus urged the parties to use the problem solving approach in Section 53 of the Code (see BCLRB Nos. B109, 201, and 334/2005, for instance). The Board also continued to consider the critical impact of its decisions on the employees and their jobs (as in the mine re-opening case), as well as the traditional interests of unions and employers under the Code (see BCLRB No. B191/2005).

The Board's website, under the heading "Innovation and Success Stories", captures the new approach in particular case studies. These are concrete examples of the new framework and its focus on innovative problem solving. The most recent entry, Case Study No. 7, is a compelling example. Out of contentious circumstances in a troubled industry, the parties, with the assistance of the Board, ultimately achieved a collective agreement which reflected a mutual respect and commitment to success. More specifically, the parties agreed to:

- cooperate to increase productivity and efficiency;
- ensure flexibility in the assignment of work; and
- engage in pre-job conferences to discuss rational and productive use of resources.

The parties also agreed to a joint consultative process to ensure ongoing efforts to achieve a productive and flexible workforce and workplace. Their overall agreement secured the investment in the enterprise, provided job opportunities for the skilled workforce, and thus supported the local, and ultimately the provincial, economy.

Case Study No. 6 is an example of how even in the often difficult construction industry, labour relations can be cooperative and productive in the mutual interest of the parties through a problem solving, consultative approach based on mutual respect.

Case Studies Nos. 1, 3, 4, and 5 show how creative, cooperative problem solving approaches can be applied to even such difficult issues as layoffs, contracting out, discipline, drug and alcohol policies, and absenteeism. Case Study No. 2 is an example of major parties in the health industry adopting an innovative collective bargaining approach in a limited fiscal environment in order to further policy-oriented, problem solving approaches.

All of the case studies exhibit innovative, problem solving approaches consistent with the new framework for labour relations in the Code. I encourage you to review them, but even more encourage you to create your own success story through innovation and add it to the Board's website. The goal is to move these innovation and success stories from the cutting edge to the norm in British Columbia.

Lastly, the transparency and accountability with respect to which the Board does its business is an important point. In that regard, in an independent study the Board ranked third out of the labour relations boards in North America in respect to transparency and accountability. While that is an acceptable showing, we are continuing to work on how we do our business and how we report on it in order to try to improve our performance under the Code. That is consistent with the need identified in the Code for labour relations matters to proceed in an efficient, timely, and effective manner.

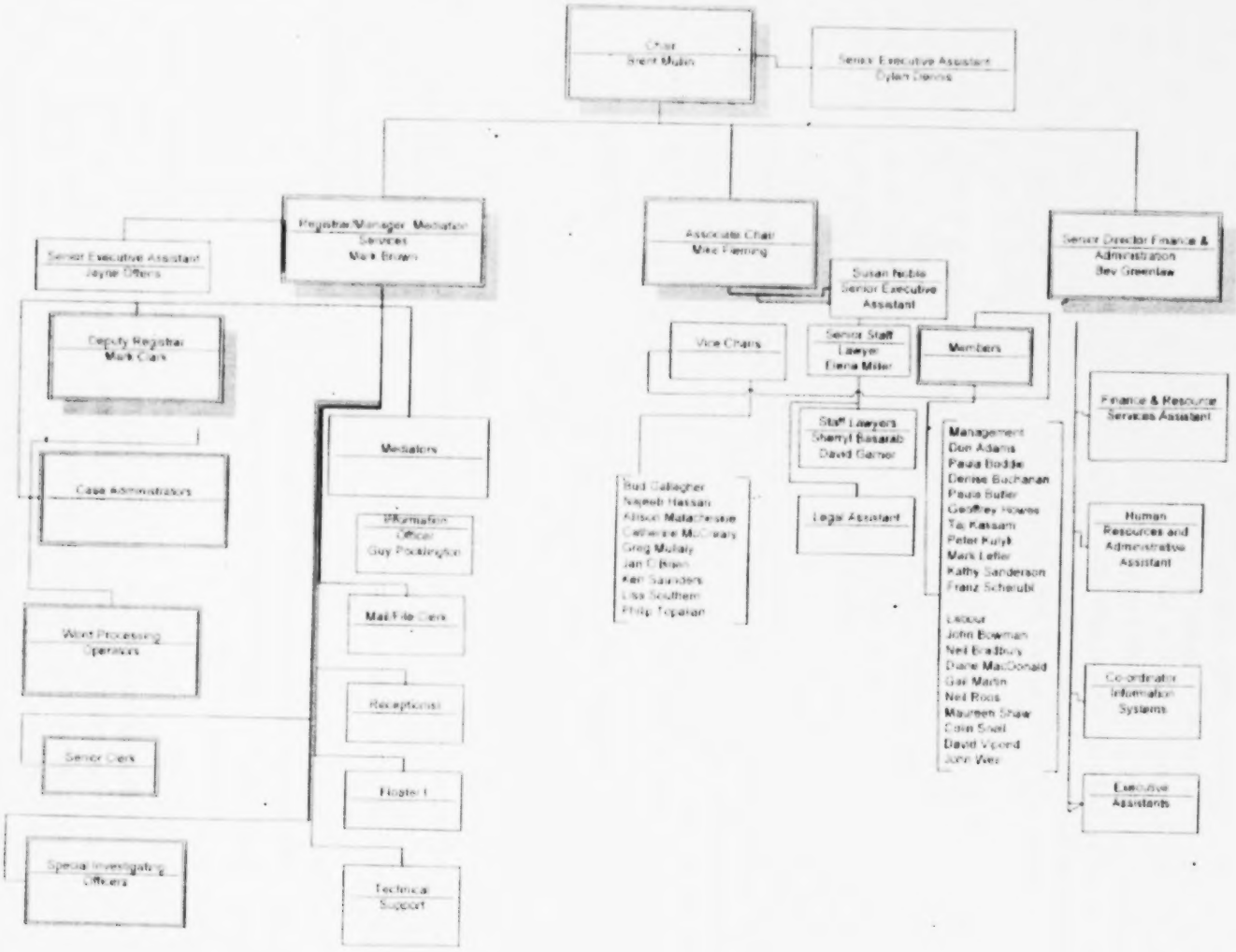
That does not mean, however, that the Board will proceed to an oral hearing in all matters, or even lightly or easily do so. Once again, traditional approaches need to be modified in order to meet current needs. The Board explained this as follows in BCLRB No. B191/2005:

> We add from a policy perspective that as a Board we are not inclined to proceed into evidentiary hearings without

justification. There must be a proper basis established for the requirement of such a proceeding. In doing its job under the Code, the Board expends public funds. Evidentiary hearings incur expense and delay. Evidentiary hearings are an essential part of the quasi-judicial processes at the Board where warranted, but it would be irresponsible to engage in an evidentiary hearing where not warranted. ...

We add that unless warranted, the expense and delay of evidentiary hearings are not consistent with the purposes of the Code (see Section 2 of the Code). It does not assist labour relations or the public interest under the Code to make the proper determination of labour relations matters more expensive and less timely. (*ACFC West – The Association of Canadian Film Craftspeople, Local 2020 Communications, Energy and Paperworkers Union of Canada*, BCLRB No. B191/2005 (Leave for Reconsideration of BCLRB No. B343/2004), paras. 11-12)

Brent Mullin
Chair


Chair
Brent Mullin
Senior Executive Assistant
Dylan Dennis
Registrar/Manager, Mediation Services
Mark Brown
Associate Chair
Mike Fleming
Senior Director Finance & Administration
Bev Greenlaw
Senior Executive Assistant
Joyce Otters
Deputy Registrar
Mark Clark
Susan Noble
Senior Executive Assistant
Vice Chairs
Senior Staff Lawyer
Elena Miller
Members
Case Administrators
Mediators
Information Officer
Guy Pocklington
Staff Lawyers
Sherryl Basarab
David Garner
Legal Assistant
Finance & Resource Services Assistant
Word Processing Operators
Mail Handlers
Receptionist
Senior Clerk
Registrar
Special Investigating Officers
Technical Support
Human Resources and Administrative Assistant
Coordinator Information Systems
Executive Assistants
Bud Gallagher
Sajeeb Hassan
Allison Matacheskie
Catherine McCreary
Greg Mullaly
Jan C Brain
Keri Saunders
Lisa Southern
Philip Toperian
Management
Don Adams
Paula Boddie
Denise Buchanan
Paula Butler
Geoffrey Howes
Tai Kassam
Peter Rulyk
Mark Lefler
Kathy Sanderson
Franz Scherubl
Labour
John Bowman
Ned Bradbury
Diane MacDonald
Gail Martin
Ned Roos
Maureen Shaw
Colin Snell
David Vigood
John Weir

I. THE BOARD

A. GENERAL OVERVIEW

The *Labour Relations Code* (the "Code") establishes the Labour Relations Board. The statute grants the Board exclusive jurisdiction to hear and determine applications and complaints under the Code and to make orders under the Code that it deems appropriate.

The Code governs all aspects of collective bargaining amongst the provincially-regulated employers and employees to whom the Code applies. This includes the acquisition of collective bargaining rights, the process of collective bargaining, the settlement and regulation of disputes in both the public and private sectors, and the regulation of the representation of persons by their bargaining agents. In addition to administering and enforcing the Code, the Board is charged with responsibility in labour relations matters under several other statutes.

In carrying out its mandate, the Board must at all times have regard to the manner in which it performs its duties under the Code. These are set out in Section 2(1):

2. The board and other persons who exercise powers and perform duties under this Code must exercise the powers and perform the duties in a manner that
(a) recognizes the rights and obligations of employees, employers and trade unions under this Code,
(b) fosters the employment of workers in economically viable businesses,
(c) encourages the practice and procedures of collective bargaining between employers and trade unions as the freely chosen representatives of employees,
(d) encourages cooperative participation between employers and trade unions in resolving workplace issues, adapting to changes in the economy, developing workforce skills and developing a workforce and a workplace that promotes productivity,
(e) promotes conditions favourable to the orderly, constructive and expeditious settlement of disputes,
(f) minimizes the effects of labour disputes on persons who are not involved in those disputes,
(g) ensures that the public interest is protected during labour disputes, and
(h) encourages the use of mediation as a dispute resolution mechanism.

In order to accomplish this expansive mandate, the Code establishes the Board's administrative structure. Section 115(1) of the Code provides that the Board shall consist of a Chair, Vice Chairs, and as many other members, equal in number, representative of employers and employees respectively, as shall be considered necessary and appointed by the Lieutenant Governor in Council. The Chair is the head of the Board. The Chair designates one of the Vice Chairs to act as Associate Chair and one to act as the Registrar and Manager, Mediation Services. The Chair, along with the Associate Chair, establishes panels to proceed with applications or complaints under the Code. Panels may be composed of the Chair, Vice Chair(s), and members in accordance with Section 117(5) of the Code.

B. OFFICE OF THE CHAIR

As head of the Board, the Chair has the ultimate responsibility to oversee the administration of the Board and the Code. The Associate Chair of Adjudication and the Registrar/Manager, Mediation Services, report directly to the Chair. The Chair may sit as a panel, either with or without Vice Chairs and/or other members. The Chair presides at all proceedings of the Board and on all panels of which the Chair is a member.

C. REGISTRY

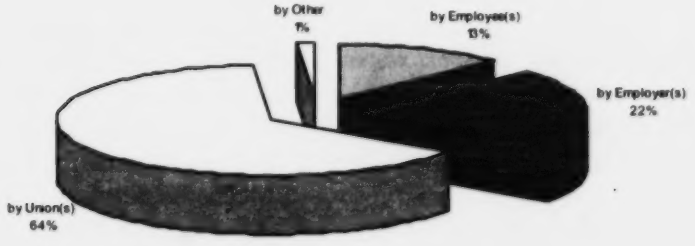
Every application received by the Board is processed through the Registrar's office. Administration and progress of each case is overseen by the Registry until the matter is finally disposed of. Four case administrators, each dealing with a geographic area of the Province, are responsible for initiation of applications and the conduct of files.

Processing of all applications through the Registry enables the Board to utilize computerized case monitoring/management to achieve effective and speedy processing of cases.

Legislated time frames, combined with established Board policies and procedures, result in approximately 56 percent of applications receiving expedited processing. Part 5 applications can require adjudication within 24 hours. Certain unfair labour practice complaints require commencement of a hearing within three days. Others such as certification and decertification applications are normally processed within approximately one week of receipt.

On certification and decertification applications, Case Administrators are responsible for completing all necessary procedures before files are forwarded to Adjudication for a hearing. This includes written notification to parties, initiation of investigations by Industrial Relations Officers (IROs) and requests for written submissions. Accordingly, administrative staff must be familiar with legal principles and Board case law and policies.

2005 Applications and Complaints by Type of Applicant



Informal dispute resolution is an important part of the Board's operations and is used extensively during the processing of applications and complaints. Under the direction of the Deputy Registrar, cases requiring immediate informal dispute resolution are assigned to Special Investigating Officers (SIOs). The vast majority of their case load involves expedited matters such as unfair labour practice complaints, certifications, and Part 5 applications dealing with strikes, lockouts and picketing.

Assistance by SIOs through the informal process can be obtained by the parties or the adjudicator at any stage of proceedings, including case management meetings and after formal hearings have commenced.

These informal settlement discussions are on a "without prejudice" basis. That is to say, a party cannot subsequently raise what was said in such discussions in any formal proceeding. However, settlement agreements reached on issues during the informal proceedings are binding on the parties and will be enforced by the Board.

The informal process achieves a very high success rate. As shown in Table 9 of the statistical tables, approximately 67 percent of unfair labour practice complaints and Part 5 complaints referred to officers are settled.

This informal dispute resolution process helps the Board and the parties make more effective use of resources and personnel, and substantially reduces the time needed to conclude cases, thus reducing expenditures. In addition, by fostering negotiated settlements between the parties, the process furthers the purposes of the Code by minimizing, where possible, decisions imposed by a third party.

Similar valuable services are provided throughout the Province by Industrial Relations Officers of the Employment Standards Branch of the Ministry of Labour and Citizens' Services. For example, every application for certification or decertification requires a report by an Industrial Relations Officer. Such reports are public, with only names and numbers remaining confidential to the Board.

Both SIOs and Industrial Relations Officers (IROs) also provide considerable assistance through written reports which may involve fact finding, narrowing the issues to be adjudicated, and interviewing individual employees and employers on a wide variety of issues.

In addition to administering the Registry, the Registrar, as a Vice Chair of the Board, may chair or sit as a member of an adjudication panel, and as a sole panel member, may dispose of certain applications where summary disposition is appropriate. This leads to the speedy disposition of many types of applications.

The Deputy Registrar has responsibility for administering the informal process and also deals with Section 12, duty of fair representation applications, most of which require additional information before the Registry can process them.

In accordance with Section 122(3) of the Code, the Board appointed its first Information Officer, effective February 1, 1994. His responsibilities to date have encompassed two main areas: handling incoming inquiry calls, and preparing written material for the public and the labour relations community.

The Information Officer deals with between 30 and 40 calls per day from

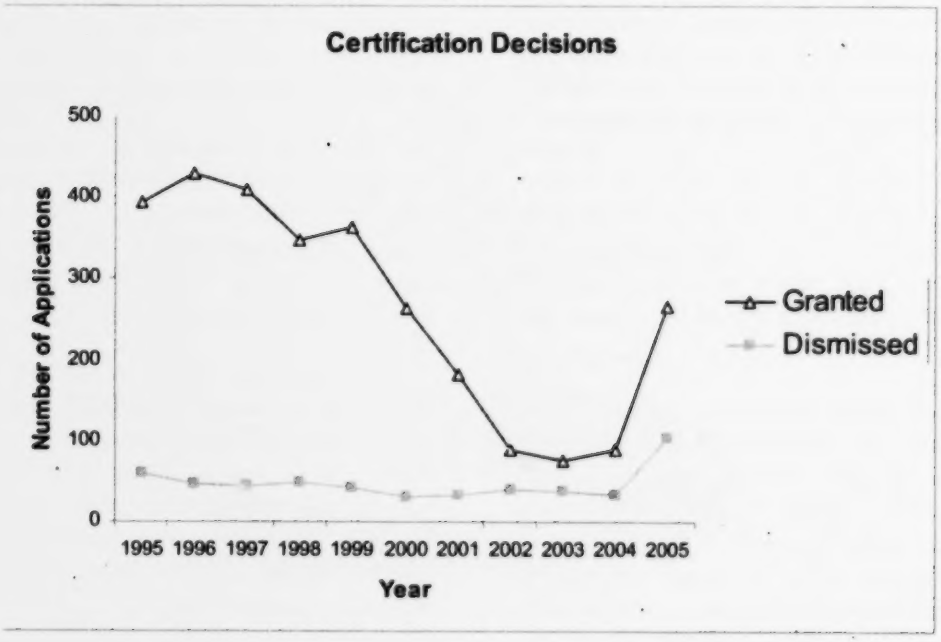
employers, unions, individual employees and media representatives.

The Board's publications include an *Employer's Guide to the Union Certification Process*. This plain language guide is sent to employers along with the Notice of Certification Application, to clarify their rights and responsibilities under the Code. The Guide is also available in French, Chinese and Punjabi translations. The day after the Notice and Guide are sent to employers, the Information Officer sends a letter to employers who have not previously been certified, offering to answer any questions about the Code or certification procedures before the hearing date or on the morning of the certification hearing.

A companion publication, *Questions and Answers for Employees Regarding the Union Certification Process*, has been developed following an extensive consultation process with the labour relations community. It provides information to employees in plain language concerning the certification process.

Another publication prepared by the Information Officer, the Board's Practice Manual, has now been in use since April, 1995.

The Board's web site was officially launched in late 1999. The site includes information concerning the Board's processes, hearing schedules and recent Board decisions. The site is a work-in-progress and the Board welcomes input from the public to help improve the information provided. The web site address is www.lrb.bc.ca.



D. COLLECTIVE AGREEMENT ARBITRATION BUREAU

Effective July 5, 2002, and pursuant to the *Labour Relations Code Amendment Act, 2002*, the Collective Agreement Arbitration Bureau was brought under the administration of the Labour Relations Board. Pursuant to Section 83(1) of the Code, the Chair designated the Board's Deputy Registrar, Mark Clark, as Director of the Bureau.

The primary function of the Bureau is to appoint arbitrators where one of the parties seeks an expedited form of arbitration, where the parties seek consensual mediation/arbitration, or where there is a failure to appoint or constitute an arbitration board by one of the parties. In addition, the Bureau also appoints settlement officers to assist the parties in resolving grievances filed under collective agreements. The Labour Relations Board offers the services of its Special Investigating Officers (SIOs) and Mediators as settlement officers to assist the parties in resolving the grievances prior to an arbitrator's appointment by the Bureau.

Since July 5, 2002, applications filed with the Bureau for the appointment of arbitrators and/or settlement officers are processed through the Registry of the Labour Relations Board. The Registry's Case Administrators are generally responsible for the day-to-day administrative processing of the applications, with the Director responsible for the selection/appointment of the arbitrator in each case.

The Bureau, through its Director, must also maintain a register of arbitrators. A Joint Advisory Committee, as appointed by the Minister, must advise the Director on the training and education of arbitrators and settlement officers, research and publication of information about arbitrations, and establishment and maintenance of a register of arbitrators.

The Joint Advisory Committee comprises two representatives of unions, two representatives of employers and two representatives of arbitrators, along with the Director who is the chair of the committee.

E. ADJUDICATION DIVISION

The Adjudication Division is responsible for hearing and deciding applications brought under the *Labour Relations Code*. The Division also attempts wherever possible to settle disputes without formal adjudication through case management and alternative dispute resolution.

Issues requiring adjudication include applications for the acquisition and termination of bargaining rights; unfair labour practice complaints; duty of fair representation complaints by individual employees; common and successor employer applications; reviews of arbitration awards; complaints respecting strikes, lockouts, picketing and other conduct regulated by Part 5 of the Code, including the replacement worker and essential services provisions; and applications for reconsideration of Board decisions.

On average, 1144 cases per year were adjudicated over the past 6 years. A

comparison of cases assigned for adjudication and adjudicated for the past several years is set out in the accompanying table. The Adjudication Division published 338 decisions. Summaries of the key cases are found elsewhere in this Report.

A major portion of the Division's workload continues to be adjudication of expedited applications (including certifications, unfair labour practice and Part 5 applications). During 2005, expedited applications comprised about 71 percent of cases received in the Board's major adjudication areas.

As of December 31, 2005 the Board had 8 Vice Chairs and 3 Staff Lawyers.

	1999	2000	2001	2002	2003*	2004	2005
Applications Assigned for Adjudication	1,603	1,365	1,258	860	890	1,141	919
Applications Adjudicated	1,628	1,404	1,293	957	889	936	902
Applications Outstanding at Year End	410	371	336	239	240	445	462

*Figures adjusted after publication of 2003 Annual Report.

F. MEDIATION DIVISION

The Mediation Division offers assistance in collective bargaining, facilitation of joint sessions which enable employers and trade unions to improve their working relationship and collective bargaining information. These and other services are provided under the direction of the Manager, Mediation Services.

Information about the services available from the Mediation Division can be obtained via the Board's web site (www.lrb.bc.ca). This information includes various practice guidelines on the sections of the *Labour Relations Code* administered by the Mediation Division.

Collective Bargaining Mediation (Sections 55 and 74)

Collective bargaining mediation involves assistance to employers and unions to conclude the terms of first or renewal collective agreements. Mediators utilize a variety of techniques in an effort to assist the parties to reach mutual agreement. In certain cases, the mediator may issue recommendations for settlement.

The majority of mediation appointments are made under Section 74 of the Code and involve the renewal of existing collective agreements. A lesser number of first collective agreement mediator appointments are made under Section 55. In 2005, mediators were appointed to 88 cases under Section 74 and 5 cases under Section 55. Mediators were also involved in a further 25 cases which were carried over from previous years.

Essential Services (Section 72)

The mediation of essential services in certain public sector disputes is also part of the mandate of the Mediation Division.

Conflict Management

During 2005, the Mediation Division continued with its conflict management initiatives, not only in keeping with its mandate under the Code, but also with a view to designing individualized and relevant programs. The focus of the programs places greater emphasis on the analysis of conflict and its ongoing management in the workplace.

At the joint request of employers and trade unions, the Mediation Division consults with the parties in an effort to understand the nature and role of conflict in the parties' organization. Current methods of dispute resolution are also examined in the context of the organizational culture within which they operate. The Mediation Division works with the stakeholders to design and implement conflict management processes that focus on systemic change.

Guidelines used in the design process include: stakeholder participation, the adoption of preventative methods of alternative dispute resolution including training in interest based problem solving, the use of interest based and rights based processes, promotion of dispute resolution throughout all levels of the organization. Openness and broad based participation are encouraged and emphasis is also placed on the importance of feedback and continuous self-evaluation.

Relationship by Objectives Program

One of the forums for exploring conflict and designing conflict management systems has been the Relationship by Objectives program. The program which was originally designed as a two-day exploratory retreat has been refocused to place greater emphasis on skills in effective communication and interest based problem solving.

In a preliminary assessment, Mediation staff determine if the parties are committed to make the changes needed in their relationship to foster a more positive climate in the workplace. The assessment is conducted through various forms of information gathering, including meetings, surveys, and/or focus group discussions. Following this initial assessment, a representative sampling of the stakeholders attend a two or three-day session away from the workplace. Two mediators normally facilitate the session. Participants receive skills training, identify conflicts affecting their relationship, and collectively develop strategies to address and manage the identified conflicts. These strategies take the form of written action plans with specific goals, timeframes for achieving the goals and assignment of specific individuals responsible for ensuring that action plans are carried out.

Labour Management Consultation Committees

Section 53 of the Code requires employers and unions to establish joint consultation committees to promote the cooperative resolution of workplace issues. Using some of the same conflict management techniques described above, the Mediation Division offers assistance to employers and unions in meeting this obligation. Assistance is offered for the establishment of new committees and/or improvement in the effectiveness of existing committees. These sessions are usually scheduled for half a day to a maximum of a day, depending on the needs of the parties.

G. ADMINISTRATION

Information Systems

The Board has a Compaq Alpha Server computer running a Digital UNIX operating system. The in-house applications running on the computer are written in PowerHouse and the information/data collected is stored in an Interbase database. The Board is also running Microsoft Windows NT Server 4.0 as a file and print server.

The principal computer applications contained on the in-house computers run in the following areas: case management, word processing, office automation and end user computing, statistical collection and distribution, library management and computer aided research.

Finance and Administration

The Finance and Administration Department is responsible for human resource matters including recruitment, payroll and benefits administration, financial management including budget, accounts payable/accounts receivable and is also responsible for all security and facilities matters.

Office and Technical Support

All Board departments are ably assisted in the performance of their duties by various office and technical support staff. These include technical support persons, word processors, executive assistants, and administrative support personnel.

II. BOARD MEMBERS AND MEDIATORS

As of December 31, 2005 the Board consisted of the following members:

EXECUTIVE

BRENT MULLIN, *Chair*

Brent Mullin's education includes a B.A. from the University of Victoria, an M.A. from Queen's University at Kingston, Ontario, and an LL.B. from the University of British Columbia. From 1983 to 1992 he practised labour relations, employment and human rights law in Vancouver, British Columbia at Russell & DuMoulin (now Fasken Martineau DuMoulin). From 1992 to 1998 he served as a Vice-Chair at the British Columbia Labour Relations Board, then returned to the practice of labour law at Fasken Martineau DuMoulin. In January 2002 he was appointed Chair of the British Columbia Labour Relations Board and in August 2002, Chair of the Employment Standards Tribunal.

MARK J. BROWN, *Vice Chair and Registrar/Manager Mediation Services*

Mark Brown was appointed to the Board as Vice Chair commencing February 1, 1996. Mark also served as a Board Mediator commencing in March of 2001. In September of 2002 as part of the Board's restructuring initiative, Mark was appointed Manager Mediation Services. In September of 2003 Mark was appointed Registrar as well. Mark graduated from Ryerson in Toronto in 1977 with a Bachelor of Business Management degree. He joined the Canadian Red Cross as an Administrator of one of its centers in Toronto. In 1981 he joined Versa Services Ltd. as its Industrial Relations Manager responsible for collective bargaining and labour relations for Canada. From 1985 to 1995 he was employed by the Health Employers Association of B.C., and one of its predecessor associations. As the Director of Consulting Services, he was responsible for collective bargaining, third party hearings and human resource management for the community care sector. In 1995 he briefly held a similar position for the Community Social Services Employers' Association before joining the Board.

MICHAEL FLEMING, *Associate Chair*

Michael Fleming obtained a B.A. from Simon Fraser University in 1978 and worked with the Ministry of Human Resources as a social worker until 1983. He then worked for the Canadian Farmworkers Union appearing before a number of tribunals and courts on behalf of the members. He received an LL.B. in 1988 from the University of British Columbia and then articled and practised law with the firm of Rush, Crane & Guenther until 1990. From 1990 to his appointment to the Labour Relations Board as Vice Chair in 1997, he was employed by the BCGEU holding several positions and appearing before various tribunals and arbitrators on behalf of the Union and its members. He was appointed as the Associate Chair in the fall of 2002.

VICE-CHAIRS

NAJEEB HASSAN, *Vice Chair*

Prior to his appointment, Hassan was employed with the Health Employers' Association of B.C. as a senior labour-relations consultant, where his responsibilities included the preparation and presentation of industry-significant arbitration for Labour Relations Board proceedings. He has extensive collective bargaining experience, having acted as the assistant spokesperson for health employers in 1998 and during negotiations with health unions in 2001.

ALLISON MATACHESKIE, *Vice Chair*

Allison Matacheskie received her LL.B from the University of Ottawa in 1989. She articled in British Columbia with the firm of Stevenson, Norman, which practiced labour law exclusively representing unions. She was called to the B.C. Bar in 1990 and remained with Stevenson, Norman until 1992 when she left the area of labour law to practice criminal law as crown counsel. After two years of experience prosecuting at the provincial court level, she returned to labour law and joined the firm of Victory Square Law Office, a firm which exclusively represents unions. She practiced there for more than five years before she resigned for personal family reasons. She returned to practice labour law in 2001 and joined the firm of Granville and Pender Labour Law Office. In October of 2002, she accepted a temporary contract with the Ministry of Attorney General as a special assignment prosecutor. She was appointed as a Vice-Chair in January 2004.

CATHERINE McCREARY, *Vice Chair*

Catherine McCreary received her LL.B. from the University of Calgary in 1983. From 1984 to 1997 she practiced labour law in Calgary with the firm of McGown Johnson acting mainly for unions and employees. In 1997 Ms. McCreary moved to Vancouver where she accepted the position of in-house counsel to Teamsters Local 213. In 1999 she was elected to the Board of Directors of Vancity Credit Union. On October 11, 2000 Ms. McCreary was appointed a Vice Chair of the Labour Relations Board.

GREG MULLALY, *Vice Chair*

Greg Mullaly took degrees in philosophy at Dalhousie University (B.A. (Hons.), 1975) and the University of Oxford (B. Phil., 1978) before returning to Dalhousie University to study law. He received an LL.B. in 1981 and then practiced labour law for nineteen years, most recently at Victory Square Law Office. Mr. Mullaly was appointed to the Labour Relations Board in June, 2000.

JAN O'BRIEN, *Vice Chair*

Jan O'Brien was an employee representative of the Board for nine years before her appointment as Vice-Chair in June 2000. She was coordinator of the Capilano College Labour Studies Program for two years. During 10 years with the Communications, Energy and Paperworkers' Union and its predecessor, the Vancouver Newspaper Guild, Ms. O'Brien headed several sets of collective bargaining, led organizing drives, and represented employees in grievances and arbitrations. She was also Vice-President of the B.C. Federation of Labour. O'Brien is a former newspaper reporter. She has an MBA from Simon Fraser University and a BA from the University of British Columbia.

KEN SAUNDERS, *Vice Chair*

Ken Saunders obtained a Bachelor of Arts degree from Simon Fraser University in 1987 and a Bachelor of Law degree from the University of British Columbia in 1990. Following graduation, he acted as Assistant Director of the Hospitality Industrial Relations Employers' Association where he was responsible for grievance arbitration and Labour Relations Board matters. In 1996 he joined the Community Social Services Employers' Association until his appointment as a Vice Chair in October, 2000. At CSSEA he headed the Dispute Resolution and Research Services Department and acted on behalf of member agencies in Labour Relations Board, Employment Standards, Human Rights and collective agreement arbitration proceedings. On October 11, 2000 Mr. Saunders was appointed a Vice Chair of the Labour Relations Board.

LISA SOUTHERN, *Vice Chair*

Southern received her law degree from Osgoode Hall Law School at York University in 1996. She was called to the British Columbia Bar Association in 1997, specializing in labour, employment and human rights issues. As a labour relations advisor at Forest Industrial Relations Inc., Southern provided employment, labour relations and human rights advice for the forest industry umbrella organization, established to administer and bargain the collective agreement governing member companies and 14,000 employees certified with IWA-Canada.

PHILIP TOPALIAN, *Vice Chair*

Topalian received a law degree from the University of British Columbia in 1977 and practiced law from 1978 to 1980. Topalian was appointed to the position of Labour Relations Officer in the Provincial Government in 1989, holding the position of Senior Labour Relations Officer with the Public Service Association since 1995. Topalian has extensive experience in negotiations as well as appearing as counsel before a variety of employment related tribunals.

BOARD MEMBERS

DON ADAMS, *Employer Representative*

Adams has a master's degree in industrial and labour relations from the University of Oregon. He has written various publications on human resource issues and organizational change. Adams is the president of D. Adams Management Services Ltd., consulting primarily to smaller-to-medium size businesses and not-for-profit organizations concerning labour relations, human resources, organization development and performance management. He is a member of the Vancouver Board of Trade and Coalition of B.C. Businesses.

PAULA BODDIE, *Employer Representative*

Paula Boddie has worked in the human resources/labour relations field for over 15 years. She has held senior management positions in the federal and provincial sectors, most recently as Vice President of Human Resources at B.C. Transit. Ms. Boddie held a similar position at the Vancouver Port Corporation and at the Vancouver Stock Exchange. Ms. Boddie has extensive experience in labour relations, human resources, and with employment equity and human rights matters and legislation. Currently, Ms. Boddie is a practising consultant in the broad human resources field.

DENISE BUCHANAN, *Employer Representative*

Denise Buchanan presently leads the Human Resources department of White Spot Limited as Director of Human Resources. She is involved in labour and employee relations, training, health and safety, and compensation issues for over 3000 employees. Under her leadership, White Spot Limited was awarded the Quality of Council of BC's Award of Distinction of People Practices in 1999. Her experience includes working with union and non-union, corporate and franchisee environments. She has been involved in many rounds of labour negotiations both as chief spokesperson and as a committee member, and has participated in grievances, hearings and arbitrations on a wide spectrum of issues. Her prior experience includes over 10 years in Operations and Multi-Unit Management, providing her with a solid business management background to complement her human resources expertise.

PAULA BUTLER, *Employer Representative*

Paula Butler is presently working as a sole practitioner. Her practice includes mediation/arbitration services, and harassment and other investigation services to both public and private sector clients. She also provides legal advice to employers on a variety of labour and employment law issues, and is the Manager of Labour Relations at MDS Metro Laboratory Services. Prior to that, Paula worked for the Community Society Services Employers' Association of B.C. as the Acting Director/Team Coordinator of Human Resources/Labour Relations Services. Paula is a graduate of the University of Victoria with a Bachelor of Law degree.

GEOFFREY HOWES, *Employer Representative*

Geoffrey Howes has 35 years of experience in the restaurant and hospitality industry. He has worked in virtually all aspects of the industry, from waiter to chef to owner. As Director of Operations for Toseki Entertainment Ltd. he is responsible for the day-to-day operation of three fine dining restaurants - Salmon House on the Hill, Aqua Riva and Horizons. He also has considerable experience in labour policy issues, as an executive member of the Coalition of B.C. Businesses and as the Vice-President of Government Affairs for the B.C. Restaurant & Food Services Association.

TAJ KASSAM, *Employer Representative*

Kassam has a degree in hotel management from the University of Strathclyde, Scotland. He is currently the president and chief operating officer of Sandman Hotels, Inns and Suites of Vancouver. He is a director of the British Columbia and Yukon Hotel Association, member of the Hotel Catering and Institutional Management Association and an advisory committee member of the Hotel and Restaurant Management Program at Douglas College.

PETER KULYK, *Employer Representative*

A director of the B.C. Auto Dealers' Association, Kulyk is the president and general manager of Ensign Chrysler in Victoria. Kulyk has nearly 30 years in the automobile industry, working in all areas of the business, owning and managing dealerships for the last 13 years in B.C. and previously in Alberta, Saskatchewan and Manitoba. He has been involved in collective agreements with the machinists union, gaining experience in negotiating and resolving differences.

MARK LEFFLER, *Employer Representative*

Mark Leffler is Manager, Human Resources and Labour Relations for the Greater Vancouver Regional District. In that capacity he is responsible for collective bargaining on behalf of 16 municipalities and the Regional District in a voluntary bargaining association. His department negotiates some 60 collective agreements covering more than 13,000 employees, including inside/outside employees, police, firefighters, nurses, museum and public library staff. The department also provides job evaluation, workers' compensation and employment equity services throughout the Region. Mr. Leffler is a graduate of the University of British Columbia and, prior to joining the GVRD in early 1986, held a variety of labour relations and human resource management positions with Ontario Hydro, Liquid Carbonic Canada Ltd. and B.C. Hydro.

KATHY SANDERSON, *Employer Representative*

Kathy Sanderson previously served the small business community of B.C. as the Chair of the Coalition of B.C. Businesses and as Director of Provincial Affairs for the Canadian Federation of Independent Business. Currently, Ms. Sanderson works as a consultant and in addition to serving on the Labour Relations Board also sits as a member of the B.C. Labour Force Development Board.

FRANZ SCHERUBL, *Employer Representative*

Franz Scherubl has worked in the labour relations field for close to 20 years. He is currently responsible for labour relations, human resources corporate governance and trade training at BC Gas Utility. He has a Bachelor of Commerce and Business Administration degree from the University of British Columbia and has also worked in mining, insurance and retail services.

JOHN BOWMAN, *Employee Representative*

Bowman handles representation for the National Automobile, Aerospace, Transportation and General Workers Union of Canada (CAW-Canada) before the B.C. and Alberta labour relations boards, as well as the Canadian Industrial Relations Board. He has been involved in organizing more than 10,000 members into the CAW and before that, the Canadian Association of Industrial Mechanical and Allied Workers Union.

NEIL BRADBURY, *Employee Representative*

Neil Bradbury is a National Representative for the Canadian Union of Public Employees. Mr. Bradbury has been a member of the Board of Directors of the Medical Services Association since 1985, serving as Vice Chairman since 1989 as well as Chairman in 1993 and 1994. He is a past member of the Workers' Compensation Boards of Review and has held positions on the executives of CUPE Local 498, CUPE's Fraser Valley District Council, and the CUPE B.C. Executive Board. He has instructed courses for the Canadian Labour Congress, the B.C. Federation of Labour and CUPE's six-level program. He regularly represents employees and locals before tribunals.

DIANE MACDONALD, *Employee Representative*

MacDonald received her Bachelor of Arts degree from Simon Fraser University in 1986, a law degree from Dalhousie in 1991, and her Ph.D. from Northeastern University in 1998. She is a labour lawyer for the B.C. Teachers' Federation. MacDonald is responsible for arbitrations, mediations, and Labour Relations Board hearings. She has been involved in submissions to the Human Rights Commission and provided policy advice to provincial and federal task forces on labour law reform.

GAIL MARTIN, *Employee Representative*

Gail Martin has worked for B.C. Telephone since 1967. For most of that time she has been involved with the Telecommunications Workers' Union as a Local Executive member. She has served on several joint committees with company representatives including contracting out and technological change, work jurisdiction and job sharing. Since 1995 she has worked full-time for the TWU. She is also active in her community. In 1990 she was a candidate for Councillor in Delta, currently serves on the Delta Police Board, and is an executive member of the Canadian Association of Police Boards. She is married with two adult children.

NEIL ROOS, *Employee Representative*

Roos has been involved in the labour relations community in B.C. for almost 35 years. In that time, he has led the Christian Labour Association of Canada from a small union presence to that of some 8,000 members. Roos has represented CLAC interests at the Labour Relations Board and is familiar with jurisprudence as well as board protocol. As well, he has taken courses in labour law and labour relations via the Continuing Legal Education Society of B.C.

MAUREEN SHAW, *Employee Representative*

Maureen Shaw has been President of the College Institute Educators' Association of B.C. (CIEA) for 3 years and Secretary Treasurer for the previous 3. She has also been a member of the Executive Council of the B.C. Federation of Labour and the BCFL Education Committee. An English instructor at Kwantlen University-College, Maureen has also been active at the local level, serving as Chief Steward, Chief Bargainer and Local President.

COLIN SNELL, *Employee Representative*

Colin Snell is the former President and Secretary Treasurer of the British Columbia Provincial Council of Carpenters. Prior to his election in 1985 to the Provincial Council, he was Business Agent of Carpenters' Vancouver Local Union 452 for 15 years. Mr. Snell has held Executive Council positions with the B.C. Federation of Labour, the B.C. and Yukon Territory Building and Construction Trades Council and the Vancouver and District Labour Council.

DAVID VIPOND, *Employee Representative*

David Vipond has been employed with the BCGEU for 21 years. He has worked in the Kootenays, Okanagan and Lower Mainland Area Offices as a Regional Coordinator. He is currently Chief Negotiator for the Master Agreement with the Province of British Columbia. He is also responsible for membership grievance appeals and is a Trustee for the Public Service Pension Plan. He was a National Industrial Officer in Australia with the Community and Public Sector Union where he was responsible for the federal Attorney General's Department, including all related agencies, boards, commissions and courts. He has previously served as Chair of the Board for Surrey Memorial Hospital and as a member of the Business Task Force.

JOHN WEIR, *Employee Representative*

John Weir is the Assistant to the Secretary-Treasurer and Director of Organizing for the B.C. Federation of Labour. From 1972 to 1980, he was a member of Local 480 of the United Steelworkers of America in Trail, B.C., serving as Chief Shop Steward and Safety Committee Vice-Chair. He represented Trail and Kimberley Steelworkers in several rounds of contract negotiations and was Secretary of the Cominco Chain Bargaining Council in Western Canada. As Financial Secretary of Local 480 from 1980 to 1986, he was responsible for Workers' Compensation advocacy, rehabilitation, benefits and pensions. During this period, he served as labour member of the Unemployment Insurance Board of Referees. In 1986, John was appointed to the Workers' Compensation Review Board. He joined the B.C Federation of Labour in 1987

as a Staff Director and has worked on a range of labour relations issues including human rights, occupational health and safety and Workers' Compensation. In 1991, John Weir was seconded to the Canadian Labour Congress to coordinate projects in South Africa and the Middle East, returning to the Federation a year later.

MEDIATORS

As of December 31, 2005, the Board's Mediation Division consisted of the following Mediators:

DEBBIE CAMERON, *Mediator*

Debbie Cameron graduated from the Cariboo College Nursing program in 1976 and worked as a registered nurse for the next four years. In 1981 she was employed by the B.C. Nurses' Union, initially as a Labour Relations Officer, then as Negotiations Officer and in 1992 became the Co-ordinator of Hospitals and Organizing. As Hospitals Co-ordinator she was responsible for negotiations and contract administration of all hospital sector collective agreements, covering more than 17,000 employees. Debbie joined the Board as a mediator in 1994. Debbie has a Certificate in Conflict Resolution from the Justice Institute of British Columbia, a Certificate in Intercultural Studies from the University of British Columbia and a Masters degree in Conflict Analysis and Management from Royal Roads University.

GRANT McARTHUR, *Mediator*

Grant McArthur graduated from the University of British Columbia in 1973. He worked for the Hospital Employees' Union for approximately five years. He then joined the Labour Relations Board as a Special Investigating Officer in 1980 and left to work for Canada Post in late 1984. Mr. McArthur joined B.C. Rail in 1986 where he worked in labour relations and as Manager of Personnel Services for three years prior to returning to the Board in 1992.

STEPHEN RINFRET, *Mediator*

Stephen Rinfret has worked in both labour relations and human resources in B.C. for over 20 years. Immediately prior to joining the Board, he was Director of Labour Relations Services for the Continuing Care Employee Relations Association (now HEABC). During this time, Mr. Rinfret also taught an undergraduate course in collective bargaining at Simon Fraser University, and a similar course at the British Columbia Institute of Technology. He holds a Bachelor of Science degree from the University of Montreal (Loyola College) and a Masters degree in Business Administration from Simon Fraser University. Stephen has been with the Board as a mediator since 1994.

III. HIGHLIGHTS OF BOARD DECISIONS

In 2005 the Adjudication Division published 338 numbered decisions. The following are summaries of some of the more noteworthy decisions issued during the year. These summaries are provided for interest only, and they do not constitute legal or authoritative interpretations of the decisions in question. The full text of these and other Board decisions are available on its website (www.lrb.bc.ca), or can be obtained from Canada Law Book (Official Publisher) (Toll free phone number: 1-800-263-2037), the Vancouver Public Library, or the Vancouver Court House Library. Electronic access is available through Quicklaw (Phone Number: 604 684-1462).

Aramark Canada Facilities Ltd., BCLRB No. B4/2005 – The membership evidence required under a Section 18(4) certification application must comply with Section 3 of the Regulations.

Surrey Imports Ltd., BCLRB No. B41/2005 – An application for certification by CAW for the Surrey location of the employer was granted notwithstanding that the Machinists were certified for its Richmond location. For reasons set out in the decision, on the facts of the case the presumption against a second bargaining unit was rebutted.

Larry Hipperson et al, BCLRB No. B46/2005 (Upheld on Reconsideration BCLRB No. B91/2005, and on judicial review: *HEU v. BCLRB et al.*, 2005 BCSC 1369) – Where a third party seeks a declaration under s. 137(4) that a union has contravened Part 5 of the Code in order to pursue a civil claim for damages, the Board has a discretion to make the declaration sought, even in circumstances where the issue would otherwise be moot.

Construction Labour Relations Assn. of B.C., BCLRB No. B50/2005 – Further to an earlier finding that the parties had breached s. 11 of the Code and that the Board should assist with collective bargaining by way of a mediative/adjudicative process, the Board met with the parties, considered their submissions, and gave certain directions. As well, the parties were encouraged to establish a s. 53 committee to deal with certain long-term, critical issues such as competitiveness and training on a consultative, problem-solving basis during the life of the next collective agreement.

Fraser Lake Sawmills Ltd., BCLRB No. B57/2005 (Leave for Reconsideration of BCLRB No. B12/2005) – An original panel may dismiss a s. 99 application on a *prima facie* basis, without either seeking submissions or holding a hearing.

Wells Consultants Inc., BCLRB No. B59/2005 (Leave for Reconsideration of BCLRB Nos. B3/2005 and B24/2005) – The Board upheld on reconsideration decisions confirming certain decisions of the Jurisdictional Assignment Plan (JAP) Umpire concerning his jurisdiction to hear work assignment grievances in circumstances where one craft union has incorporated the JAP into their collective agreement and the other has not.

Access Rigging Services, BCLRB No. B68/2005 (Upheld on Reconsideration, BCLRB No. B293/2005) – The Board found as a matter of labour relations policy that there should be only one union that qualifies to be certified as the one pertaining to the craft or skill of the standard Carpenters' bargaining unit. For reasons set out in the decision, that one union is the Provincial Council of Carpenters. Accordingly, CFAW's applications under s. 21 of the Code were dismissed.

Sodexho MS Canada Limited, BCLRB No. B85/2005 – Local 1-3567 and the employer objected to an application for certification filed by HEU on the basis of collective agreements between Local 1-3567 and the employer arising from a voluntary recognition agreement. In order to be able to hold up the collective agreements as a bar to the certification applications, Local 1-3567 had to show that it was "actually representative" of the employees. In this case, Local 1-3567 argued that this requirement was met by virtue of the fact that the employees had ratified the collective agreements. The panel found that Local 1-3567 had carried out a reasonable ratification process when it conducted ratification votes at certain sites, and accordingly a valid collective agreement was in place at those sites. With respect to one site, Burnaby General Hospital, the panel found that, because the ratification vote occurred within 10 days of the HEU's application for certification, the true wishes of the employees were equivocal. Accordingly, at that site, the panel ordered that a run-off vote take place between Local 1-3567 and the HEU.

Eurocan Pulp & Paper Co., BCLRB No. B111/2005 (Leave for Reconsideration of BCLRB No. B196/2004) – It is a principle of the Code that a person who was an employee in a bargaining unit covered by a collective agreement may file a grievance for a time when the collective agreement governed his or her employment. Accordingly, a grievor is not precluded from access to the dispute resolution provisions of a collective agreement merely as a result of not being employed at the time his or her grievance is filed.

Orca Bay Hockey Limited Partnership, BCLRB No. B127/2005 – The Board rejected an application by Orca Bay and the National Hockey League to adjourn proceedings concerning an application for certification of Orca Bay filed by the B.C. Chapter of the National Hockey League Players Association, pending the outcome of an unfair labour practice complaint filed by the NHL with the U.S. National Labour Relations Board. The unfair labour practice complaint alleged the NHLPA's application in British Columbia was illegal.

RMH Teleservices International Inc., BCLRB No. B188/2005 (Leave for Reconsideration of BCLRB No. B345/2003) – BCGEU sought reconsideration of an original decision that dismissed all but one of the union's unfair labour practice complaints against the employer. The union argued that the original decision was inconsistent with Code principles in that it permitted the employer to engage in a political-style anti-union campaign, and to effectively force employees to listen to its anti-union messages. Noting the 2002 amendments to s. 8 and s. 6(1) of the Code, the Board held that the new language of those provisions gives employers a much broader scope with respect to what they may now say to their employees. However, there is nothing in the amendments to suggest that the legislature intended to undermine the principle of employee free choice with respect to unionization reflected in s. 4(1) of the Code. The restriction on coercion and intimidation in s. 8 and s. 9 is intended to protect that fundamental Code principle. Accordingly, while an employer can communicate its views to employees, including addressing the issue of unionization, it must not do so in a manner that is coercive or intimidating. Along with being viewed contextually, the cumulative effect of the communication will be considered. Where an employer expresses its views on unionization in a manner that effectively forces employees to listen, this manner of communicating may render otherwise permissible expression coercive or intimidating. Here, the reconsideration panel found that certain methods of communication used by the employer were coercive and intimidating on the facts found by the original panel. The matter of remedy was remitted back to the original panel, with direction to consider the cumulative effect of the unfair labour practices the reconsideration panel had found.

David Wright, BCLRB No. B215/2005 – The Board is not concerned with the reason or motivation behind a member's request under s. 151 of the Code for a union's financial statements. Under s. 151, unions are obliged to disclose such statements to their members on request.

British Columbia Provincial Council of Carpenters, BCLRB No. B219/2005 – Section 51 of the Code puts the onus on parties to file their collective agreements with the Board. If a collective agreement exists, it should be filed.

Nanaimo Seniors Village Partnership, BCLRB No. B221/2005 (Upheld on Reconsideration, BCLRB No. B297/2005) – The union alleged the employer had violated Code provisions when it terminated all of its care service employees while an application for certification by those employees was pending. The employer responded that it had contracted out its care service employees in keeping with its rights as a health sector employer under Bill 29. The Board found that, absent an argument based on Bill 29, it would be a clear unfair labour practice for an employer to terminate its employees and contract out their work during an organizing drive, in order to avoid certification. Although the employer argued that it was not seeking to avoid certification altogether, but merely the application of the Master Agreement which the certification would inevitably bring, the Board found that, on the facts of the case, the employees were terminated because they sought to unionize. Bill 29 voids collective agreement provisions which would otherwise preclude health care employers from contracting out non-clinical service; however, it does not override the Code's protection of an employee's freedom to choose to be a member of a trade union. The employer was found to have breached various Code provisions. The parties were urged to resolve the issue of an appropriate remedy themselves rather than rely on the Board to impose a remedy upon them, although the Board remained seized in the event they were not able to do so.

British Columbia Public School Employers Association, BCLRB No. B229/2005 (Upheld on Reconsideration, BCLRB No. B53/2006) – BCPSEA applied under s. 70 for certain relief after the BCTF made a declaration to its members placing the Mission School Board "in dispute". The purpose of the declaration was to prevent members (and potential members) from applying for or accepting positions with Mission until Mission ceased utilizing a questionnaire to which the BCTF objected. The declaration had the desired effect, and the Board found that it substantially affected Mission's operations. The Board noted that there may well be other avenues for the BCTF to address its concerns about the questionnaire, such as grievance arbitration. It found the in-dispute declaration was inconsistent with the intent and purpose of Part 5 of the Code, and it declared the declaration to be void and unenforceable under s. 70 of the Code. It rejected the BCTF's argument that the Board's declaration under s. 70 violated the BCTF's right to freedom of expression under s. 2(b) of the *Charter*.

Telecommunications Workers Union Pension Plan, BCLRB No. B276/2005 (Upheld on Reconsideration, BCLRB No. B13/2006) – Two employers applied under s. 142 to be removed from COPE, Local 15's multi-employer certification, and asked that Local 15 be certified to represent their employees in separate certifications. Local 15 opposed the applications. The Board found that the multi-employer certification would continue to be appropriate for collective bargaining without the applicants, as would the individual unit resulting from the variance application. As there were no other factors weighing against the application, the Board found the purpose of the multi-employer certification would not be undermined if the applicant employers were allowed to leave the certification "outside the collective bargaining cycle" (i.e., the application was not made in the midst of bargaining or during a labour dispute). The applications were therefore granted.

British Columbia Public School Employers' Association, BCLRB No. B278/2005 (Leave for Reconsideration of Interim Order dated October 6, 2005) – The BCTF applied for reconsideration of an interim order, alleging a breach of procedural fairness. The order directed the BCTF and its members to refrain from striking or picketing and to resume their duties. The BCTF argued that it was not given an opportunity to make submissions with respect to the interim nature of the order. The Board held that the issue of an interim order was raised and put into issue before the original panel, and the BCTF had an opportunity to address the issue. Accordingly, it found no denial of natural justice or breach of procedural fairness had been established.

Certain Employees of Victoria Glass Company Ltd., BCLRB No. B289/2005 – The union objected to a s. 33 application on the basis that it was an untimely application for a partial decertification (made after the commencement of collective bargaining). The application was for decertification of a bargaining unit of employees of an employer who was a member of the CLRA. The collective agreement had been negotiated between CLRA and BCBCBTU (the "Council"). The union argued this meant the application was really one for partial decertification, given the sectoral bargaining structure in the construction industry. However, the Board declined to depart from the reasoning in its 1986 *Mawson Gage* decisions, in which it held that, notwithstanding that bargaining took place on a sector-wide basis, certification and decertification continued to be employer-specific. It found the bargaining format structure of the Council did not subsume the individual certifications the craft unions hold with separate employers. As a result, it dismissed the union's preliminary objection that the application for decertification was in reality an untimely application for partial decertification.

Campbell Construction Ltd. et al, BCLRB No. B293/2005 (Leave for Reconsideration of BCLRB Nos. B321/2004 and B68/2005) – The Board reconsidered two decisions that dealt with the issue of the appropriate bargaining agent to represent the Carpenters standard craft unit. The Board determined that, given the history of rivalry and fractiousness over the issue of which bargaining agent would represent the Carpenters standard craft unit, it was appropriate for the Board to determine the appropriate bargaining agent. It upheld the original decision in *Access Rigging*, B68/2005, which held that the appropriate bargaining agent was the Provincial Council. With respect to the earlier original decision in *Campbell Construction*, B321/2004, the Board held that the conclusion in *Access Rigging* should not apply to *Campbell Construction*. However, *Access Rigging* will be applied to future cases. (In *Campbell Construction*, the original panel had held that Local 1598 was not precluded from representing the Carpenters standard craft unit.) The Board noted that, while henceforward only the Provincial Council would be permitted to represent the Carpenters standard craft unit, other bargaining agents such as Local 1598 could apply for all-employee or wall-to-wall units.

British Columbia Public School Employers' Association, BCLRB No. B295/2005 – This decision gave the reasons of the original panel for an October 6, 2005 interim order in which the Board ordered the BCTF and its members to cease striking and picketing and to resume their duties.

Wal-Mart Canada Corp., BCLRB No. B301/2005 (Leave for Reconsideration of BCLRB No. B190/2005 and Certification issued September 7, 2005) – A reconsideration panel of the Board remitted a matter to an original panel of the Board on an application for certification of the "Division 6" employees of the employer's Cranbrook store. The matter remitted was to assess the appropriateness of cutting across the classification of sales associate in light of the analysis and comments provided in the reconsideration decision. The reconsideration panel also stated that it may be appropriate to consider the continuing

relevance of the difficult-to-organize doctrine given the time that has passed since the *Woodward Stores* decision, taking into consideration any differences in today's retail sector.

Compass Group Canada (Health Services) Ltd., BCLRB No. B302/2005 (Leave for Reconsideration of BCLRB No. B139/2004) – HEU sought reconsideration of an original decision which held that the ability of Bill 29 contractor employers to continue to make 100% of their workforce available to health employers in the event of a strike at healthcare facilities was not a prohibition on picketing. The reconsideration panel upheld the original panel's analysis. The panel noted that, by virtue of the contracting out of non-clinical services permitted by Bill 29, the contractor employers were third parties to the labour dispute between HEABC health employers and the HEU. While this may mean that the effect of Bill 29 is to severely curtail the effectiveness of a controlled strike and the union's ability to apply pressure to the health employers, this effect does not constitute a prohibition on picketing within the meaning of s. 65(6) of the Code. Under that provision, restrictions on picketing of third parties are to be imposed unless they amount to a prohibition. Since the restrictions did not in this case, the Board had no discretion to limit the relief from picketing to which the third party contractor employers were entitled.

Diversified Transportation Ltd., BCLRB No. B312/2005 – The employer applied for review of an arbitration award under s. 141, or alternatively s. 99, of the Code. The award was made pursuant to s. 55 of the Code; it determined the terms of a first collective agreement. There was some disagreement in prior Board decisions whether a s. 55 arbitration award was reviewable under s. 99. On reviewing the jurisprudence, the panel agreed with the conclusion in *Yarrow Lodge* that the Board has jurisdiction to review an arbitrator's s. 55 award under s. 99, and respectfully disagreed with the *obiter* remarks to the contrary in *Central Saanich*.

Pye Construction Ltd., BCLRB No. B324/2005 – A craft union may apply under s. 18 or s. 19 to be certified for an all-employee ("wall-to-wall") unit. It does not thereby lose its character as a union pertaining to a particular craft. CLAC's objection to Local 1598's s. 19 application was therefore dismissed.

Alpine Confections Canada, ULC Operating as Dynamic Chocolates, BCLRB No. B327/2005 – Steelworkers applied to vary its certification to include eight individuals with "supervisor" job titles. In the alternative, it applied for a separate supervisors unit. The employer argued that the individuals are employed in a confidential capacity, are part of its management team, lack a community of interest with the current bargaining unit employees, and perform duties that put them in a conflict with those employees. The Board set out an extensive review of the law in this area and concluded that all the disputed individuals should be varied into the union's current bargaining unit if a majority of them wished to be represented by the union.

IV. JUDICIAL REVIEW

1 ***Breeden v. Corporation of the District of West Vancouver et al*, 2005 BCSC 14, [2005] BCJ No. 43 (affirmed 2006 BCCA 33)** – The petitioner sought judicial review of the Board's decisions dismissing his section 12 complaint against his union. Among other things, the petitioner argued that review was on a standard of correctness because he submitted that the Board made a jurisdictional error in not giving greater consideration to the merits of his grievances in deciding his s. 12 complaint, in light of the 2002 amendments to s. 2 of the Code, particularly the introduction of s. 2(a). Held: Application for judicial review dismissed. The question before the original panel was whether the union breached its s. 12 duty, and the question before the reconsideration panel was whether there was a good arguable case for reconsideration. Both of these questions are squarely within the realm of labour relations, engage the area of expertise of the Board, and fall within its exclusive jurisdiction. Accordingly, review is on a standard of patent unreasonableness. The Board's decisions were not patently unreasonable. Even if the standard of review was correctness, the Board was correct in concluding that the obligations of the union had been met in the circumstances. The Board was also correct in concluding that the s. 2 amendments did not have any impact on the interpretation to be given to s. 12. The decision of the Board in *Judd*, BCLRB No. B63/2003, correctly confirmed the policy of the Board under s. 12, including the weight to be given to a consideration of the merits of the grievances.

2 ***Terasen Gas Inc. v. Office & Professional Employees' Union, Local 378*, 2005 BCSC 123, [2005] BCJ No. 167** – The petitioner sought judicial review of a s. 141 decision, overturning a s. 99 decision to allow an application to set aside an arbitrator's award. The petitioner contended the arbitration award was patently unreasonable, and therefore the Board's decision upholding it should be set aside as also patently unreasonable. Held: Because of the unique structure of labour relations tribunals in British Columbia, arbitrator's decisions are reviewable only by the Board under s. 99. The Court on judicial review is therefore reviewing the decision of the Board, not that of the arbitrator. Board decisions under s. 99 are matters within the Board's exclusive jurisdiction and therefore reviewable on a standard of patent unreasonableness only. The Board's "genuine effort" test under s. 99, and its application to the award in this case, were not patently unreasonable. Accordingly, the petition was dismissed.

3 ***CITIC B.C. Inc. (c.o.b. Celgar Pulp Co.) v. Pulp, Paper and Woodworkers of Canada, Local No. 1*, 2005 BCSC 237, [2005] BCJ No. 337** – The petitioner sought judicial review of Board decisions allowing the union's application to remit a matter to arbitration on the basis of "new evidence" that arose several years after the original arbitration award. The petitioner submitted the Board's decisions were patently unreasonable because, among other things, of the extraordinary length of time that had elapsed before the new evidence arose. Held: Application for judicial review dismissed. The Board's reconsideration decision was not patently unreasonable in finding that the original decision applied the correct legal test for assessing a s. 99 "new evidence" application, took into account all of the necessary considerations, and, having done so, made an exercise of discretion or assessment of fairness which was open to it to make.

4 ***Budgell v. British Columbia (Labour Relations Board) et al*, 2005 BCSC 487, [2005] BCJ No. 787** – The petitioner

sought judicial review of Board decisions holding that, in light of a Court of Appeal decision which overturned a lower court decision remitting the petitioner's s. 12 complaint back to the Board, the hearing which had been commenced into the remitted s. 12 matter should be discontinued. Held: Application for judicial review dismissed. The Board correctly held that it had no further jurisdiction to hear the remitted matter in light of the Court of Appeal decision overturning the decision to remit the complaint to the Board. The petitioner's arguments of actual and systemic or institutional bias were also rejected.

5 ***McCaffery v. British Columbia Labour Relations Board of BC et al* (unreported oral judgment pronounced in Chambers by Preston J. on April 5, 2005, Vancouver Registry No. L042196)** – The petitioner sought an adjournment to raise a *Charter* challenge to provisions of the *Labour Relations Code*. The *Charter* issue arose during the course of oral submissions in the judicial review proceeding. No notice had been given under the *Constitutional Questions Act*. Held: Adjournment application dismissed. The application the petitioner seeks to bring would, in effect, strike down the scheme of representation sanctioned by the Code. He seeks to do that on the basis that the provisions of the Code that permit a union to discontinue its representation of a member in the course of a grievance contravene s. 7 of the *Charter*. However, the existing authorities indicate that this challenge would have no chance of success. In addition, there were a number of occasions upon which it would have been appropriate to raise the *Charter* application earlier in the process, to receive the benefit of the consideration of a specialized tribunal.

6 ***Public Service Alliance of Canada, Local 05/20500 v. British Columbia (Labour Relations Board)*, 2005 BCSC 577, [2005] BCJ No. 848** – The petitioner sought judicial review of Board decisions which held, among other things, that the Board had jurisdiction under the Code to order a partial revocation of bargaining rights (partial decertification). Held: The legislative intent of s. 58 of the *Administrative Tribunals Act* was to simplify the complexity of determining the standard of review. Accordingly, where as here the issue was jurisdictional in nature, the Board's decision as to its jurisdiction is reviewable on a standard of correctness, not patent unreasonableness. The Board correctly concluded it has jurisdiction to order partial decertification under s. 142 of the Code. That provision explicitly permits the Board to cancel certifications on its own motion. That power would be of little value if, as the petitioner suggests, s. 33 was the only method by which a union could be decertified. Section 33(8) and (10) explicitly recognize that certification may be cancelled under other provisions of the Code. Section 142 is similar to earlier provisions which had been judicially recognized as granting a power to partially decertify bargaining units.

7 ***McCaffery v. British Columbia (Labour Relations Board of BC)*, 2005 BCSC 611, [2005] BCJ No. 907** – The petitioner sought judicial review of a Board decision dismissing his s. 12 complaint against his union. He did not make a timely application for leave and reconsideration under s. 141. His untimely s. 141 application had been dismissed by the Board because he did not provide compelling reasons for the 17-month delay. Held: The application for judicial review must be rejected because the petitioner failed to exhaust internal remedies. He made a conscious choice not to pursue his remedy of applying for reconsideration before the Board (in a timely manner). The fact that he acted in person does not excuse his refusal to pursue his statutory remedy. In any case,

the Board's decision to dismiss his s. 12 complaint was not patently unreasonable. Nor was the Board's decision to dismiss his s. 141 application as untimely.

8 ***Stark v. Board of School Trustees of School District No. 39 (Vancouver) et al*, 2005 BCSC 931, [2005] BCJ No. 1398 (affirmed 2006 BCCA 124)** – The petitioner sought judicial review of Board decisions dismissing his applications under s. 12 and s. 99 of the Code, as well as judicial review of two arbitration awards and a settlement agreement. Held: Petition dismissed. The settlement agreement is not a reviewable decision under the *Judicial Review Procedure Act* and accordingly there is no basis for judicial interference in relation to it in this proceeding. With respect to the arbitration awards, although it may be that the court does not have jurisdiction to judicially review arbitration awards [note: this proposition was confirmed by the Court of Appeal], there would be no basis justifying judicial intervention in the awards in any case. The petitioner failed utterly to show the commission of an error justifying intervention. With respect to the Board's decisions, they were with respect to matters within the Board's jurisdiction and therefore reviewable only for patent unreasonableness. The Board's decisions were not patently unreasonable, and accordingly the petition was dismissed in its entirety.

9 ***Hospital Employees' Union v. Canadian Forest Products Ltd.*, 2005 BCSC 877, [2005] BCJ No. 1330** – The petitioner sought an interim order from the Court, to effect a stay of the Board's proceedings pending the hearing and deciding of a judicial review petition. The Board had decided to defer ruling on whether it had jurisdiction to hear Canfor's complaint against the union and certain ihdividuals until it had heard all the evidence, considering the jurisdictional issue to be a question of mixed fact and law that was intertwined with the evidence on the merits of the complaint. The Board further ruled that it had jurisdiction to issue summonses under the Code, rejecting the union's arguments that it could not issue summonses and compel witnesses until it had first determined that it had jurisdiction over the complaint. Held: Application for a stay dismissed. The jurisdictional question is not one of pure law, and some factual inquiry into the nature of the conduct complained of is clearly necessary to determine the jurisdictional question. Accordingly, the applicant did not establish a serious question to be tried on the deferral issue. With respect to the summons issue, the first test of a serious question to be tried is met. However, the Court found that irreparable harm would not befall the petitioner if a stay were not granted. Accordingly, the stay application was dismissed.

10 ***Andrews v. British Columbia (Labour Relations Board)*, 2005 BCSC 746, [2005] BCJ No. 1139** – The petitioner, a lay litigant, filed his petition for judicial review of a Board decision four days after the 60-day time limit set out in s. 57(1) of the *Administrative Tribunals Act*. Under s. 57(2) of the *Act*, a court may extend the time limit if it is satisfied that there are serious grounds for relief, there is a reasonable explanation for the delay and no substantial prejudice or hardship will result to a person affected by the delay. Held: The extension was not granted. The issue of "serious grounds for relief" requires the court to consider whether there is a reasonable likelihood or prospect that the petition will succeed. Here, it was clear that the Board's decision to dismiss the petitioner's s. 12 complaint was not patently unreasonable. Accordingly, as it is unlikely that the petitioner's application for judicial review would succeed, there are no serious grounds for relief as required by s. 57(2) for an extension to be granted.

11 ***United Brotherhood of Carpenters and Joiners of America, Locals 527, 1370, 1598, 1907 and 2397 v. British Columbia (Labour Relations Board)* (unreported oral judgment pronounced in Chambers by Groves J. on August 18, 2005, Vancouver Reg. No. L050535)** – The petitioner sought judicial review of Board decisions allowing an application for certification to proceed under s. 18(4)(b) of the Code, where not all members of the applicant council of trade unions were party to a collective agreement with the employer in relation to which the certification was sought. The petitioner argued the Board erred in its interpretation of s. 18(4)(b) and that its error was jurisdictional in nature. Held: Under s. 58 of the *Administrative Tribunals Act*, the standard of review is patent unreasonableness where the Board is acting in an area in which it has the discretion to act, and correctness when a jurisdictional issue is raised. A pragmatic and functional analysis is used for determining which standard of review is applicable. In this case, on such an analysis, the applicable standard of review is patent unreasonableness. The legislative intent is that the Board decide the issue raised, not the Courts. It is a certification issue, a question of who is to be certified in certain circumstances. The Board's interpretation of s. 18(4)(b), though not necessarily one that the Court would reach, is not patently unreasonable. Accordingly, the petition for judicial review was dismissed.

12 ***Canadian Union of Public Employees, Local 561 v. British Columbia (Labour Relations Board), Brad Larson and School District No. 43 (Coquitlam)*, 2005 BCSC 1366, [2005] BCJ 2082** – The petitioner sought judicial review of Board decisions finding it had breached s. 12 in its representation of a member. Among other things, the union argued that the Board exceeded jurisdiction or made a patently unreasonable decision when it found that the legal opinion relied upon by the union in deciding not to pursue the member's grievance was flawed. Held: The question of the degree to which a union is entitled to rely on a legal opinion in deciding to proceed with, or withdraw, a grievance, is not a question of law beyond the jurisdiction of the Board. Properly characterized, the Board found the opinion was "flawed", not in the sense that it was incorrect, but in the sense that, as the entire basis for withdrawing the grievance, it was incomplete, because it failed to address the material factor of long discipline-free service. A finding that the union had failed to consider a material factor, in relying on a legal assessment found to be incomplete, is a matter within the jurisdiction of the Board. The Board's decision was not patently unreasonable, and accordingly the petition was dismissed.

13 ***Hospital Employees' Union v. British Columbia (Labour Relations Board)*, 2005 BCSC 1369, [2005] BCJ No. 2060** – The petitioner sought judicial review of Board decisions declaring that the petitioner had contravened Part 5 of the Code by striking and picketing at health care facilities. The declaration was given on the application of certain individuals, who sought it as a prerequisite to a claim for an action in damages. Among other things, the HEU argued that the Board's decision to grant standing to the individuals to seek the declaration was patently unreasonable, and that the Board erred in dismissing the HEU's *Charter* argument. Held: The Board's decision to grant standing to the individual applicants was not patently unreasonable. The Board was not required to conduct a hearing into the cause of the harm suffered by the individual applicants. The Board was satisfied that the petitioner's claim for damages had some basis in fact. That was sufficient. With respect to the HEU's *Charter* argument, the Court agreed that the Board is not permitted to apply

precedent or policy without regard to the facts and circumstances in each particular case. Here, however, the Board had addressed a *Charter* challenge to the definition of strike in an earlier case, and had made an interpretation that even withdrawals of service which could be characterized as political protests aimed at government are captured by the definition of "strike". The petitioner here did not outline circumstances to the Board which it argued distinguished this case from the earlier one, and accordingly the Board was simply basing its decision on a legal interpretation of the Code which has not been overruled by judicial authority. The petition for judicial review was dismissed.

14 ***Speckling v. British Columbia (Labour Relations Board)*, 2005 BCSC 1406, [2005] BCJ No. 2123** – The petitioner sought judicial review of Board decisions dismissing the s. 12 complaints of himself and his brother, Ben Speckling. In this decision, the Court dealt with preliminary objections to the petition raised by the union. The union objected that the petition was an abuse of process and therefore should be dismissed pursuant to Rule 19(24). Alternatively, it submitted that the affidavits of the petitioner should be struck, in whole or in part, because they contained evidence that was not before the Board. Held: Union's preliminary applications dismissed. The Court was not persuaded to dismiss the petition as an abuse of process under Rule 19(24), nor to strike out portions of the petitioner's affidavits.

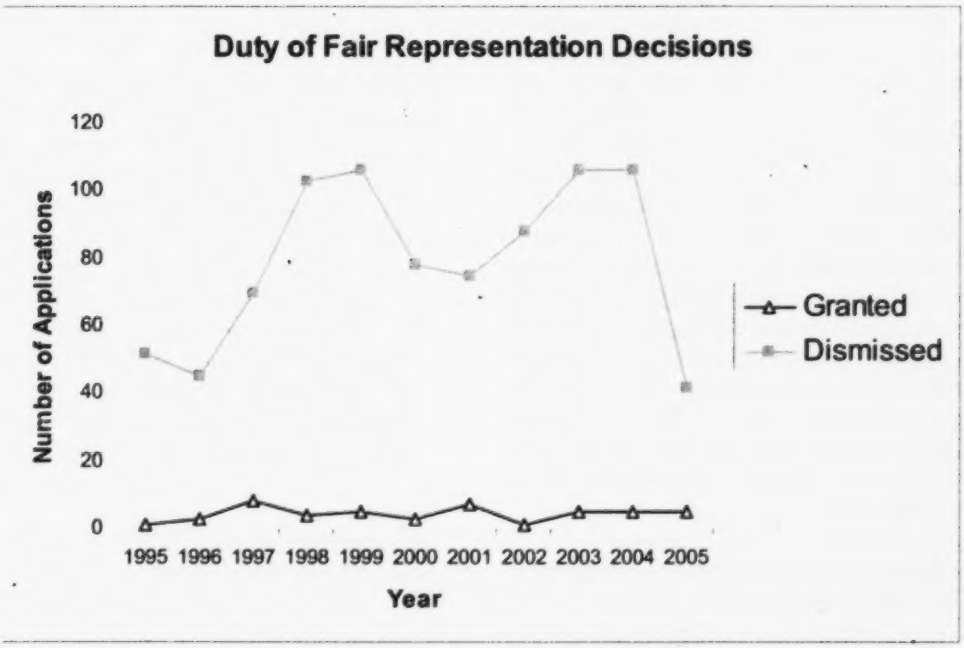
15 ***British Columbia Teachers' Federation v. British Columbia Public School Employers' Assn.*, 2005 BCSC 1435, [2005] BCJ No. 2216** – The B.C. Business Council and the Coalition of B.C. Businesses sought intervenor status in an application for judicial review of Board decisions concerning *Charter* challenges to the definition of "strike" in the Code and whether the definition applies to "political protests". Held: Applications for intervenor status granted on the basis that the intervenors will not file additional affidavit material that was not before the Board, and will be restricted to written submissions that do not duplicate the submissions of the parties and oral submissions of no more than 60 minutes in duration.

16 ***British Columbia Teachers' Federation v. British Columbia Public School Employers' Assn.*, 2005 BCSC 1441, [2005] BCJ No. 2217** – The BCTF and the HEU filed separate applications for judicial review of a Board reconsideration decision concerning two original decisions which each considered separate *Charter* challenges from the BCTF and the HEU concerning the definition of "strike" in the Code. On application by the respondent employer associations BCPSEA and HEABC, a judge had ordered that the two petitions be "heard together". In this decision, the chambers judge appointed to hear the two petitions together decided an issue with respect to the order of proceedings. Held: The petitions should not be heard sequentially (one after the other), but rather in a consolidated manner, such that duplication of submissions is avoided, and parties may make submissions responsive to the submissions of any other party with respect to whether the reconsideration decision should be upheld or overturned.

17 ***Daniel v. McCrea et al*, 2005 BCSC 1480, [2005] BCJ No. 2286** – A plaintiff in a motor vehicle accident claim sought to add many entities, including the Board, as defendants in her action. The Board had rejected a s. 12 complaint filed by the plaintiff's husband. Held: The application to add the Board as a defendant was dismissed. The Board is immune from lawsuits over acts done or omitted in the execution of its duties. In addition, any such claim could only be made by the

husband, who is not even a plaintiff in the action.

18 ***Gordon Larche v. Healthcare Benefit Trust*** **(unreported oral judgment pronounced in Chambers by Melvin J. on November 29, 2005, Victoria Registry No. 05-0875)** – The petitioner sought judicial review of a claims review committee decision of March 26, 1986. A question arose as to the jurisdiction of the Court to hear the petition. Held: The Court is without jurisdiction to judicially review the decision of the claims review committee. That decision is a decision of an arbitration board within the meaning of the Code, and arbitration awards are reviewable only by the Board under s. 99 or by the Court of Appeal under s. 100.



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EXPLANATORY NOTES TO TABLES

The following tables provide an analysis of the applications filed and disposed of in 2005. In some cases, statistics from 2004 and other years are provided for comparative purposes.

New for 2005 in Table 1: applications and complaints "Filed Previous" and "Remainder Active". These figures help provide an overview of the active or current caseload at the Labour Relations Board.

Statistical Tables Definitions:

- **Application / Complaint**: a section or subsection of the Labour Relations Code. A case may be comprised of more than one application or complaint (section);
- **Filed Previous**: count of applications / complaints received prior to the report period but not disposed of prior to the report period;
- **Filed Current**: count of applications / complaints received in the report period.
- **Disposed of Current**: count of applications / complaints with a final disposition in the report period;
- **Remainder Active**: count of applications / complaints received prior to the end of the report period (may be included in the filed previous count or filed current count) which have no final disposition as of the report end date.

A number of other changes have been made during past years in the statistical base used in some of the categories in Table 1. The changes have been summarized as follows for reference.

Tables

Tables available in previous years regarding vote information for representation applications, details of Part 5 applications, and details of Mediation Officer appointments were taken out of the Annual Report in 2004.

Certification cancellation information (s.33(2)) was added to tables 1A, 1B, 2 and 2A as of 2004. Other information previously included in Table 1 footnotes has been moved to related tables for ease of reference and readability.

Applications for Collective Agreement Arbitration

The Labour Relations Board assumed the processing of these applications from the Collective Agreement Arbitration Bureau in mid-2002; however, due to technical and procedural considerations, applications under Sections 86, 87, 104 and 105 ("CAAB" applications) were counted in the Board's statistics only if received on or after January 1, 2003 (i.e., any 'outstanding' CAAB applications at the end of 2002 are not included in the Board's statistics).

Requests for Appointment of a Mediator

Applications to appoint a Mediator under Section 74 were counted as applications for the first time in the 2002 Annual Report (see Table 1: "Applications and Complaints Filed and Disposed of"). These applications were processed by the Board/Council prior to 2002 but appeared only in the "Analysis of Mediator Appointments" Table for those years.

Complaints of Unfair Labour Practices

Prior to 1989, complaints under Sections 2 or 3 (now Sections 5 or 6) of the legislation were not broken down by sub-section. From 1989 to 1996, complaints under each particular sub-section were counted as one complaint.

In 1996, the Board has decided to revert to the pre-1989 method of counting these complaints. The change affects the statistics published as Sections 2,3 and 4 of the *Industrial Relations Act* and Sections 5,6,7 and 9 of the *Labour Relations Code*. The following table displays the statistics as they were published and as they would have been under the pre-1989 method of counting (rev).

Type of Application	NUMBER OF APPLICATIONS OR COMPLAINTS									
	Year	Filed	Disposed of	Not Proceeded With	Withdrawn	Settled	Granted	Dismissed	Other	Hearing Held
Other Unfair Labour Practice Complaints (ss.5,6,7 and 9 of the Labour Relations Code or ss.2,3, and 4 of the Industrial Relations Act)	1995	825	909	26	0	573	192	118	0	449
	1995 (rev)	488	529	25	0	338	97	69	0	221
	1994	899	831	9	0	586	136	100	0	362
	1994 (rev)	513	467	9	0	326	74	58	0	176
	1993	748	676	3	0	440	134	99	0	331
	1993 (rev)	422	390	2	0	249	73	66	0	177
	1992	416	345	0	0	205	108	32	0	176
	1992 (rev)	228	185	0	0	112	54	19	0	83
	1991	346	370	0	0	241	92	37	0	NP
	1991 (rev)	187	199	0	0	135	44	20	0	
	1990	386	388	5	0	220	100	63	0	NP
	1990 (rev)	229	225	3	0	124	62	36	0	
	1989	209	177	0	0	96	47	34	0	NP
	1989 (rev)	123	118	0	0	61	36	21	0	

NP --Not Published

Stay Applications

Applications for a Stay of proceedings were counted as applications for the first time in 1993 (see Table 1: "Applications and Complaints Filed and Disposed of"). A footnote has been added to the Miscellaneous category to facilitate comparisons over time. In previous years, these applications were not counted.

For an Interpretation of the Legislation as it Applies to the Collective Bargaining Relationship

Prior to 1989, an application regarding the inclusion or exclusion of employees from a bargaining unit was counted as one application for each employee in question if a ruling was made; if the application was withdrawn, it was counted as one application regardless of the number of employees involved. From 1989 on, an application regarding the inclusion or exclusion of employees is counted as one application regardless of the number of

employees in question and regardless of whether or not a ruling is made.

To File an Order in the Supreme Court

Applications to file orders in the Supreme Court were counted as applications for the first time in 1989 (see Table 1: "Applications and Complaints Filed and Disposed of"). These applications had been processed by the Board/Council since 1974 but were not registered or counted prior to 1989.

For an Order or Opinion Pertaining to Applications Pursuant to Part 5 (Strikes, Lockouts, Picketing, etc.)

Prior to 1988, each application under Part 5 was counted as one application, regardless of the sections cited. One application could cover, for example, a strike or a picket or a combination of both. From 1988 on, each section and sub-section of Part 5 is counted as a separate application.

GENERAL NOTES

For the convenience of users, the following is a brief description of some of the disposition codes used in Table 1.

- Applications and complaints granted include those where an order is issued, whether a regular order or a consent order. If an application is partially granted, it is included in this category.
- Applications and complaints dismissed include those where no violation is deemed to have occurred, where the application does not conform to statutory or regulatory time limits or where it is determined no further action is warranted.
- Applications and complaints not proceeded with include only those where the applicant has not supplied the Board with sufficient information to process the application. The application is returned but the applicant is free to reapply.
- Complaints that do not require a decision from the Board are designated settled including cases for which the applicant submits a withdrawal.

It is important to note when using these statistics that the work content embodied in individual applications varies widely, both among different categories of applications and among applications in the same category. The work content of the administrative, investigative and decision-making functions can vary widely as well, from category to category and from application to application.

TABLE 1: Applications and Complaints Filed and Disposed of in 2005 (including comparative figures for 2004)

Type of Application / Complaint	Year	Filed Previous	Filed Current	Disposed of - Current							Remainder Active	Hearing Held
				Total Disposed of	Not Proceeded With	Withdrawn	Settled	Granted	Dismissed	Other		
Complaints of Unfair Labour Practices												
Complaints Regarding Internal Union Affairs (s.10)	2005	7	11	10	3	0	1	2	4	0	8	1
	2004	8	14	15	4	0	4	3	4	0	7	1
Complaints Regarding Duty to Bargain in Good Faith (s.11)	2005	22	15	30	0	0	25	1	4	0	7	9
	2004	18	38	34	0	0	25	5	4	0	22	9
Complaints Regarding Duty of Fair Representation (s.12)	2005	31	99	101	44	0	10	5	42[1]	0	29	7
	2004	73	90	132	40	0	13	8	71[2]	0	31	14
Other Unfair Labour Practice Complaints (ss.5-9)[3]	2005	108	225	249	0	0	180	34	35	0	84	76
	2004	98	233	223	4	0	154	37	28	0	108	77
Religious Exemption (s.17)	2005	2	6	8	1	1	0	5	1	0	0	0
	2004	0	6	4	0	0	0	4	0	0	2	0
Certification Applications (ss.18, 19 and 28)	2005	229	226	418	0	47	0	266[4]	105	0	37	349
	2004	32	374	177	0	55	0	88[4]	34	0	229	147

[1] 17 of the 42 dismissed complaints filed under the *Labour Relations Code* were dismissed because no *prima facie* case was found.

[2] 32 of the 71 dismissed complaints filed under the *Labour Relations Code* were dismissed because no *prima facie* case was found.

[3] In 1996, the Board changed the method of counting complaints under Sections 5 and 6 of the *Labour Relations Code*. Figures in this category reported prior to 1996 cannot be compared to figures in this category reported from 1996 to present.

[4] The total number of *certification applications granted* may not equal the total number of *certifications issued* in a given period. Occasionally more than one certification is issued for a single granted application, or, conversely, a single certification is issued where multiple applications for certification are granted. In 2005, 266 certification applications were granted resulting in 249 certifications being issued. In 2004, 88 certification applications were granted and 88 certifications were issued.

TABLE 1: Applications and Complaints Filed and Disposed of in 2005 (including comparative figures for 2004)

Type of Application / Complaint	Year	Filed Previous	Filed Current	Disposed of - Current							Remainder Active	Hearing Held
				Total Disposed of	Not Proceeded With	Withdrawn	Settled	Granted	Dismissed	Other		
Certification Variances (ss.28 and 142)	2005	48	165[1]	194[2]	0	18	0	141	35	0	19	64
	2004	**89**	**191[3]**	**232[4]**	**3**	**21**	**0**	**188**	**20**	**0**	**48**	**44**
Certification Cancellations (ss.33 and 142)[5]	2005	31	59	81	3	11	0	56	11	0	9	54
	2004	**13**	**102**	**84**	**9**	**3**	**0**	**53**	**19**	**0**	**31**	**69**
Cancellation of a Voluntary Recognition (s.34)	2005	3	8	9	0	1	0	6	2	0	2	8
	2004	**5**	**9**	**11**	**0**	**2**	**0**	**6**	**3**	**0**	**3**	**8**
Permission to Alter Conditions of Employment (ss.32 and 45)	2005	0	3	3	0	3	0	0	0	0	0	0
	2004	**0**	**1**	**1**	**0**	**1**	**0**	**0**	**0**	**0**	**0**	**0**
Alleged Unlawful Alteration of Employment Terms and Conditions (ss.32 and 45)	2005	11	41	37	0	0	22	13	2	0	15	17
	2004	**14**	**21**	**24**	**0**	**0**	**22**	**2**	**0**	**0**	**11**	**5**
Declaration of Successor Status												
Successor Employer (s.35)	2005	35	58	69	0	15	0	48	6	0	24	10
	2004	**42**	**68**	**75**	**1**	**20**	**0**	**50**	**4**	**0**	**35**	**10**

[1] Includes 5 'partial decertification' applications.
[2] Includes 7 'partial decertification' applications. See TABLE 3.
[3] Includes 15 'partial decertification' applications
[4] Includes 24 'partial decertification' applications. See TABLE 3.
[5] See TABLE 3

TABLE 1: Applications and Complaints Filed and Disposed of in 2005 (including comparative figures for 2004)

Type of Application / Complaint	Year	Filed Previous	Filed Current	Disposed of - Current							Remainder Active	Hearing Held
				Total Disposed of	Not Proceeded With	Withdrawn	Settled	Granted	Dismissed	Other		
Successor Union (s.37)[1]	2005	55	9	63	0	0	0	61[2]	2	0	1	3
	2004	**33**	**60**	**38**	**0**	**1**	**0**	**37**	**0**	**0**	**55**	**0**
Common Employer (s.38)	2005	24	19	30	0	17	0	4	9	0	13	13
	2004	**24**	**22**	**22**	**0**	**14**	**0**	**6**	**2**	**0**	**24**	**7**
Accreditation Applications (s.43)	2005	1	0	1	0	1	0	0	0	0	0	1
	2004	**1**	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**1**	**0**
Accreditation Variances (ss.43 and 142)	2005	4	5	9	0	0	0	9	0	0	0	0
	2004	**4**	**12**	**12**	**0**	**0**	**0**	**12**	**0**	**0**	**4**	**0**
Accreditation Cancellations (s.142)	2005	0	0	0	0	0	0	0	0	0	0	0
	2004	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**0**
Alleged Failure to Execute or Comply with a Collective Agreement (s.49)	2005	5	7	9	0	0	4	3	2	0	3	2
	2004	**5**	**3**	**3**	**0**	**0**	**1**	**2**	**0**	**0**	**5**	**3**
First Collective Agreement (s.55)	2005	2	5	6	0	0	3	n/a	n/a	3[3]	1	0
	2004	**2**	**7**	**7**	**0**	**0**	**6**	**n/a**	**n/a**	**1**[3]	**2**	**0**
Appointment of a Mediation Officer (s.74)	2005	23	88	94	0	0	81	n/a	n/a	13[3]	17	0
	2004	**16**	**111**	**104**	**1**	**1**	**75**	**n/a**	**n/a**	**27**[3]	**23**	**0**

[1] The workload required to process applications in this category varies widely. The Board may receive one application per collective bargaining relationship or one application covering several collective bargaining relationships. This report reflects the number of applications filed and disposed of regardless of the number of collective bargaining relationships affected by those applications (any notable discrepancies are listed below).

[2] 61 applications were granted affecting 2,814 collective bargaining relationships: the IWA / Steelworkers applications affected 2,210 collective bargaining relationships (counted as 11 granted applications - one for each individual local), the Hotel 40 / UNITE HERE application affected 555 collective bargaining relationships, and 49 other applications were granted each affecting a single collective bargaining relationship.

[3] Applications in these categories may be disposed of as "Other" for the following reasons: unit decertified, business closed, matter referred to arbitration, parties allowed to exercise their right to strike/lockout (under s.55(6)), or the Mediator reported out of the dispute at the request of one or more parties. The latter example may include applications for which a settlement is ultimately reached at a later date.

TABLE 1: Applications and Complaints Filed and Disposed of in 2005 (including comparative figures for 2004)

Type of Application / Complaint	Year	Filed Previous	Filed Current	Disposed of - Current							Remainder Active	Hearing Held
				Total Disposed of	Not Proceeded With	Withdrawn	Settled	Granted	Dismissed	Other		
Collective Agreement Arbitration Bureau (CAAB)[1]												
Section 86 (Appointment of Arbitrator)	2005	4	64	65	0	36	0	n/a	n/a	29[2]	3	n/a
	2004	**10**	**84**	**90**	**0**	**55**	**0**	**n/a**	**n/a**	**35[2]**	**4**	**n/a**
Section 87 (Appointment of Settlement Officer)	2005	4	58	51	2	5	31	n/a	n/a	13[3]	11	n/a
	2004	**12**	**36**	**44**	**0**	**5**	**21**	**n/a**	**n/a**	**18[3]**	**4**	**n/a**
Section 104 (Appointment of Arbitrator)	2005	5	194	189	1	35	31	n/a	n/a	122[4]	10	n/a
	2004	**13**	**230**	**238**	**4**	**49**	**38**	**n/a**	**n/a**	**147[4]**	**5**	**n/a**
Section 105 (Appointment of Mediator-Arbitrator)	2005	1	14	15	0	0	0	n/a	n/a	15[5]	0	n/a
	2004	**0**	**6**	**5**	**0**	**0**	**0**	**n/a**	**n/a**	**5[5]**	**1**	**n/a**
Combined CAAB Sections	2005	14	330	320	3	76[6]	62	n/a	n/a	179	24	n/a
	2004	**35**	**356**	**377**	**4**	**109[6]**	**59**	**n/a**	**n/a**	**205**	**14**	**n/a**
Part 5 Applications (Strikes, Lockouts, Picketing, etc.) (ss.57-67 and ss.69-70)	2005	45	119	138	0	0	91	41	6	0	26	96
	2004	**34**	**120**	**109**	**0**	**0**	**61**	**26**	**22**	**0**	**45**	**62**

[1] These applications were included in the *LRB Annual Report* for the first time in 2003. Beginning in 2004, figures for individual sections as well as the combined totals for "CAAB" (ss.86, 87, 104, 105) are included in this report. In general, for this category, "Withdrawn" indicates withdrawal / settlement prior to any appointments and "Settled" indicates withdrawal / settlement subsequent to the appointment of a Settlement Officer but prior to appointment of an Arbitrator (for further details on Settlement Officer appointments, see TABLE 9). For the purposes of this table, "Hearing Held" indicates a Labour Relations Board evidentiary hearing and therefore arbitration hearings are not included for these categories. See individual section notes regarding "Other" dispositions.

[2] Arbitrator appointed (recorded in some 2004 and 2003 reports as "Granted").

[3] Matter referred back to the parties under Section 87(3).

[4] Arbitrator appointed (recorded in some 2004 and 2003 reports as "Granted"). For 21 cases disposed of in 2005 and 34 cases disposed of in 2004, a Settlement Officer was appointed in addition to an Arbitrator.

[5] Mediator-Arbitrator appointed.

[6] For some 2004 and 2003 reports, this figure is defined in a footnote regarding the number of CAAB applications "Settled". See Note 1 above for further detail.

TABLE 1: Applications and Complaints Filed and Disposed of in 2005 (including comparative figures for 2004)

Type of Application / Complaint	Year	Filed Previous	Filed Current	Disposed of - Current							Remainder Active	Hearing Held
				Total Disposed of	Not Proceeded With	Withdrawn	Settled	Granted	Dismissed	Other		
Replacement Workers (s.68)	2005	0	5	5	0	0	5	0	0	0	0	3
	2004	**0**	**9**	**9**	**0**	**0**	**5**	**1**	**3**	**0**	**0**	**7**
Essential Service Designations (s.72)	2005	1	14	14	0	0	1	13	0	0	1	12
	2004	**3**	**230**	**228**	**0**	**0**	**155**	**73**	**0**	**0**	**1**	**3**
Last Offer Vote (s.78)	2005	0	15	15	0	1	0	14[1]	0	0	0	0
	2004	**1**	**21**	**22**	**0**	**1**	**0**	**21[2]**	**0**	**0**	**0**	**0**
Review of Arbitration Award (s.99)	2005	17	49	36	0	4	0	6	26	0	30	1
	2004	**37**	**38**	**58**	**0**	**8**	**0**	**11**	**39**	**0**	**17**	**5**
Interim Order (s.133(5))	2005	5	13	18	0	7	0	6	5	0	0	11
	2004	**8**	**13**	**16**	**0**	**7**	**1**	**5**	**3**	**0**	**5**	**4**
File an Order in Supreme Court (s.135)	2005	4	43	45	0	14	0	30	1	0	2	0
	2004	**9**	**41**	**46**	**0**	**14**	**0**	**32**	**0**	**0**	**4**	**0**
Interpretation of the Legislation as it Applies to the Collective Bargaining Relationship (s.139)	2005	54	28	53	0	30	0	0	0	23[3]	29	20
	2004	**40**	**46**	**32**	**0**	**21**	**0**	**0**	**0**	**11[3]**	**54**	**9**
Reconsideration of a Decision (s.141)	2005	27	79	87	0	11	0	8	68[4]	0	19	4
	2004	**42**	**97**	**112**	**0**	**6**	**0**	**12**	**94[5]**	**0**	**27**	**6**

[1] In eight cases the final offer was rejected, in five cases the offer was accepted; and in one case the application was withdrawn prior to the vote.

[2] In 15 cases the final offer was rejected and in five cases the offer was accepted; and in one case the application was withdrawn prior to the ballots being counted.

[3] Ruling made.

[4] For 58 of the 68 applications dismissed in 2005, leave to apply was denied.

[5] For 79 of the 94 applications dismissed in 2004, leave to apply was denied.

TABLE 1: Applications and Complaints Filed and Disposed of in 2005 (including comparative figures for 2004)

Type of Application / Complaint	Year	Filed Previous	Filed Current	Disposed of - Current							Remainder Active	Hearing Held
				Total Disposed of	Not Proceeded With	Withdrawn	Settled	Granted	Dismissed	Other		
Declaratory Opinion (excluding Declaratory Opinions Pertaining to Part V of the Legislation) (s.143)	2005	1	3	2	0	1	0	0	1	0	2	1
	2004	2	4	5	0	4	0	0	1	0	1	3
Miscellaneous	2005	29	52[1]	69[2]	0	11	17	19	22	0	12	7
	2004	39	63[3]	73[4]	0	5	26	18	24	0	29	14
Total	**2005**	**838**	**1799**	**2223**	**54**	**269**	**502**	**791**	**389**	**218**	**414**	**769[5]**
	2004	**723**	**2400**	**2285**	**66**	**293**	**607**	**700**	**375**	**244**	**838**	**507[6]**

NOTE: The sections quoted are from the *Labour Relations Code* unless otherwise indicated.

[1] Includes 17 stay applications.
[2] Includes 17 stay applications (one was granted, 15 were dismissed, and one was withdrawn).
[3] Includes 11 stay applications.
[4] Includes 13 stay applications (two were granted and 11 were dismissed).
[5] 769 applications disposed of in 2005 were heard sometime during the process. In 2005, the Board held 391 hearings (including 283 expedited hearings to deal with certification, expanded bargaining unit, and decertification applications), some of which dealt with multiple applications and for some of which, the applications had not been disposed of by the end of 2005.
[6] 507 applications disposed of in 2004 were heard sometime during the process. In 2004, the Board held 519 hearings (including 403 expedited hearings to deal with certification, expanded bargaining unit, and decertification applications), some of which dealt with multiple applications and for some of which, the applications had not been disposed of by the end of 2004.

Chart 1:
Number of Applications and Complaints FILED in 2005 - by Type

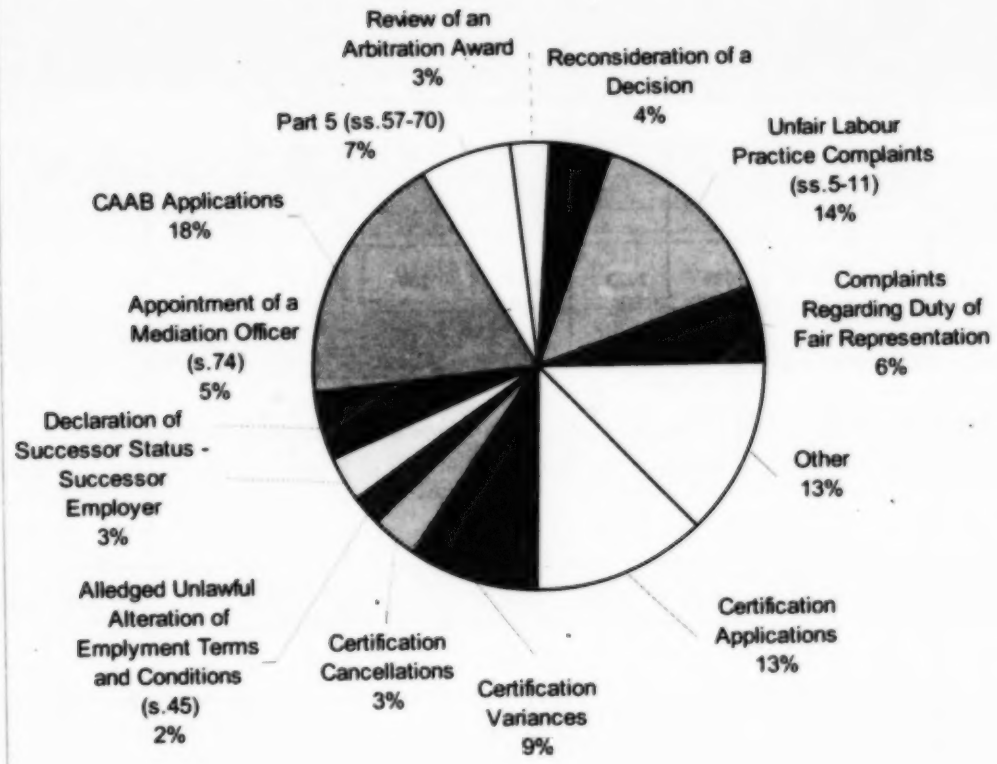

Review of an Arbitration Award 3%
Reconsideration of a Decision 4%
Part 5 (ss.57-70) 7%
Unfair Labour Practice Complaints (ss.5-11) 14%
CAAB Applications 18%
Complaints Regarding Duty of Fair Representation 6%
Appointment of a Mediation Officer (s.74) 5%
Declaration of Successor Status - Successor Employer 3%
Other 13%
Alledged Unlawful Alteration of Emplyment Terms and Conditions (s.45) 2%
Certification Cancellations 3%
Certification Variances 9%
Certification Applications 13%

TABLE 1A: Certification Applications and Certification Cancellations Under S.33(2) Granted in 2005 - Analyzed by Industry

Type of Industry	Certification Applications		Certification Cancellations[1]	
	Number of Applications Granted	Number of Employees[2]	Number of Applications Granted	Number of Employees[3]
Accommodation, Food and Beverage Services	6	143	5	124
Business Services	1	5	0	0
Construction	124	1,606	3	11
Educational Services	6	511	2	25
Finance and Insurance	2	62	1	5
Fishing and Trapping	1	150	0	0
Government Services	5	71	1	6
Health and Social Services	31	1,824	5	96
Manufacturing	38	1,025	8	66
Retail Trade	13	366	7	90
Transportation and Storage	17	380	3	48
Wholesale Trade	1	30	1	28
Other Services	21	835	4	56
Total	**266[4]**	**7,008**	**40**	**555**

[1] In order to accurately reflect the number of employees per granted application, only those certification cancellation applications brought by employees under Section 33(2) of the *Labour Relations Code* are included in this table. Thus, the total number of applications granted may not equal the corresponding figure from the "Certification Cancellations" category in TABLE 1. See TABLE 3 for a breakdown of Certification Cancellations by applicant type.

[2] The number of employees on an application for certification is based on the information supplied by the union on the application form. Variances do occur between the time of application and the time of disposition of the application. The estimate could include some multiple counting where more than one union applied to cover the same group of employees, or where the same union made alternative applications to cover the same group of employees.

[3] The number of employees on an application to cancel a certification is based on the number of eligible voters on the Return of Poll signed by the returning officer.

[4] The total number of *certification applications granted* may not equal the total number of *certifications issued* in a given period. Occasionally more than one certification is issued for a single granted application, or, conversely, a single certification is issued where multiple applications for certification are granted. In 2005, 266 certification applications were granted resulting in 249 certifications being issued.

Chart 1A: Certification Applications Granted by Industry Type (Number of Applications)

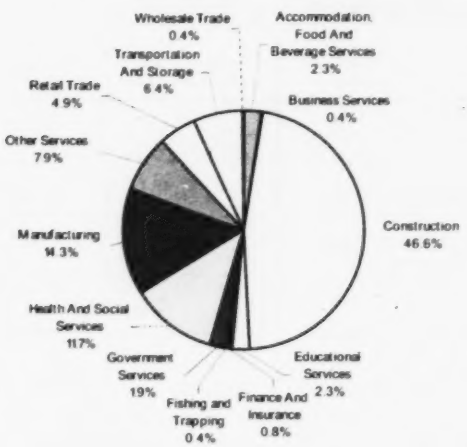


Chart 1B: Certification Applications Granted by Industry Type (Number of Employees)

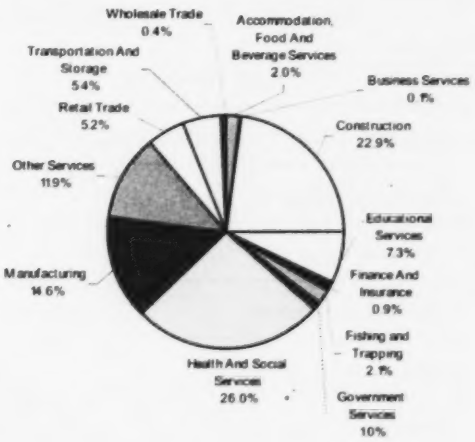


Chart 1C: Certification Cancellations (s.33(2)) Granted by Industry Type (Number of Applications)

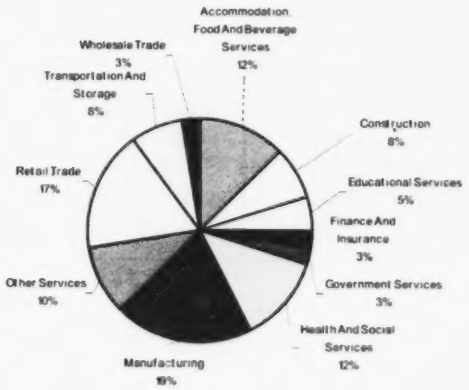


Chart 1D: Certification Cancellations (s.33(2)) Granted by Industry Type (Number of Employees)

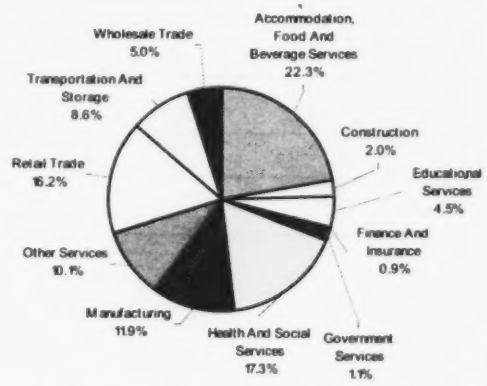


TABLE 1B: Certification Applications and Certification Cancellations Under S.33(2) Filed / Granted in 2005 - Analyzed by Union

UNION NAME (Names have been abbreviated: where possible, the commonly used, shortened form appears)	Certification Applications		Certification Cancellations[1]	
	Number of Applications Filed	Number of Applications Granted	Number of Applications Filed[2]	Number of Applications Granted
Bakery Workers (PBWA)	1	0	0	0
BCGEU	18	11	5	6
Boilermakers	1	0	0	0
Carpenters (not including CMAW or CFAW councils)	8	6	1	1
CFAW Bargaining Council (now: CAST)	11	4	0	0
CMAW Bargaining Council	31	135	1	0
CAW	34	16	2	0
CEP (including Graphic Workers)	5	3	1	0
CLAC	1	2	0	0
COOWA	1	0	0	0
CUPE	7	6	1	1
Canadian Union of Skilled Workers (CUSW)	1	0	0	0
Electrical Workers (IBEW)	6	3	0	0
Firefighters	4	4	0	0
Food & Commercial Workers (UFCW)	11	5	5	4
Glaziers	0	0	1	1
Health Sciences Association (HSA)	1	1	0	0
Hospital Employees Union (HEU)	16	32	1	1
Hotel Employees	4	2	7	5
IATSE	2	0	0	0
Iron Workers	0	0	1	0
IWA (now: Steelworkers)	0	0	1	3
Labourers	7	2	0	0
Longshore (ILWU)	1	0	0	0
Machinists and Aerospace Workers	2	1	4	3
Marine Workers	1	1	0	0
Office & Professional Employees (OPEIU/COPE)	0	0	1	0
Operating Engineers (IUOE)	14	9	5	1
Painters (not including Glaziers 1527)	4	1	0	0
Police Officers	0	0	1	1

TABLE 1B: Certification Applications and Certification Cancellations Under S.33(2) Filed / Granted in 2005 - Analyzed by Union

UNION NAME (Names have been abbreviated: where possible, the commonly used, shortened form appears)	Certification Applications		Certification Cancellations[1]	
	Number of Applications Filed	Number of Applications Granted	Number of Applications Filed[2]	Number of Applications Granted
Post-Secondary Educators (FPSE)	1	1	2	1
PPWC	1	1	0	0
Sheet Metal Workers	2	1	2	2
Steelworkers	21	13	7	5
Teachers' Federation Employees' Union (TFEU)	1	1	0	0
Teamsters	8	7	6	5
Single Employer Independent Union	3	0	0	0
Total	**226**[3]	**266**[3,4]	**55**	**40**

[1] Only those certification cancellation applications brought by employees under S.33(2) of the *Labour Relations Code* are included in this table. Thus, the number of applications filed and/or granted may not equal the corresponding figure from the "Certification Cancellations" category in TABLE 1. See TABLE 3 for a breakdown of certification cancellations by applicant type.

[2] Does not include applications that were not proceeded with (NPW) due to incorrect or insufficient information supplied on the application.

[3] Adding the individual numbers in the column produces a larger number because two applications were filed jointly by more than one union and one such application was granted.

[4] The total number of *certification applications granted* may not equal the total number of *certifications issued* in a given period. Occasionally more than one certification is issued for a single granted application, or, conversely, a single certification is issued where multiple applications for certification are granted. In 2005, 266 certification applications were granted resulting in 249 certifications being issued.

TABLE 2: Certification Applications and Certification Cancellations Under S.33(2) Filed / Decided in 2005

Type of Application		Filed	Granted	Dismissed	Total 'Decided'
Total Certification Applications	Number of Applications	226	266[1]	105	371
	Number of Employees[2]	7,191	14,835	5,332	20,167
Certification Applications for Previously Unorganized Employees	Number of Applications	209	255	72	327
	Number of Employees	6,544	14,568	4,461	19,029
Certification Applications for Organized Employees	Number of Applications	17	11	33	44
	Number of Employees	647	267	871	1,138
Total Applications to Cancel a Certification Brought by Employees under S.33(2)	Number of Applications	55[3]	40	10	50
	Number of Employees	1,118	555	242	797

[1] The total number of *certification applications granted* may not equal the total number of *certifications issued* in a given period. Occasionally more than one certification is issued for a single granted application, or, conversely, a single certification is issued where multiple applications for certification are granted. In 2005, 266 certification applications were granted resulting in 249 certifications being issued.

[2] The number of employees on an application for certification is based on the information supplied by the union on the application form. Variances do occur between the time of application and the time of disposition of the application. The estimate could include some multiple counting where more than one union applied to cover the same group of employees, or where the same union made alternative applications to cover the same group of employees.

[3] Does not include applications that were not proceeded with (NPW) due to incorrect or insufficient information supplied on the application.

TABLE 2A: Certification Applications and Certification Cancellations Under S.33(2) Granted in 2005 - Analyzed by Size of Bargaining Unit

	Certification Applications		Certification Cancellations[1]	
Number of Employees	Number of Applications	Percentage of Applications	Number of Applications	Percentage of Applications
1 to 10	132	49.6%	18	45.0%
11 to 20	38	14.3%	13	32.4%
21 to 30	33	12.4%	4	10.1%
31 to 40	19	7.1%	4	10%
41 to 50	10	3.8%	0	0%
51 to 60	12	4.5%	1	2.5%
61 to 70	5	1.9%	0	0%
71 to 80	2	0.7%	0	0%
81 to 90	2	0.7%	0	0%
91 to 100	0	0%	0	0%
101 to 200	11	4.1%	0	0%
Over 200	2	0.8%	0	0%
Total	**266**	**100%**	**40**	**100%**

[1] Since only those certification cancellation applications brought by employees under S.33(2) of the *Labour Relations Code* are included in this table, the number of applications granted may not equal the corresponding figure from the "Certification Cancellations" category in TABLE 1. See TABLE 3 for a breakdown of certification cancellations by applicant type.

Chart 2A: Certification Applications Granted in 2005 Analysed by Size of Bargaining Unit (Number of Employees)

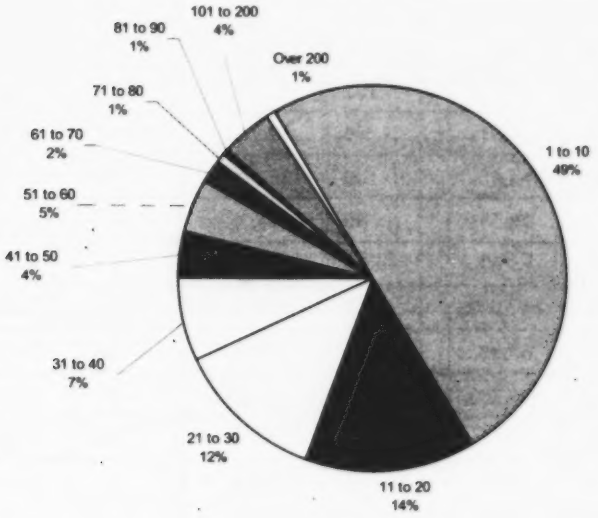


Chart 2B: Certification Cancellations (s.33(2)) Granted in 2005 Analysed by Size of Bargaining Unit (Number of Employees)

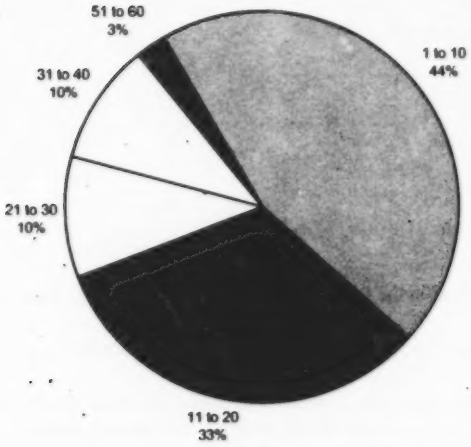


TABLE 2B: Certification Applications Granted Between 1990 and 2005 by Size of the Bargaining Unit

Year	Number and Percentage of Certification Applications						
	1 to 20 Employees		21 to 50 Employees		Over 50 Employees		Total
1990	181	72.4%	47	18.8%	22	8.8%	250
1991	173	70.9%	47	19.3%	24	9.8%	244
1992	130	66.0%	47	23.9%	20	10.1%	197
1993	353	69.4%	102	20.0%	54	10.6%	509
1994	292	66.9%	86	19.7%	59	13.4%	437
1995	253	64.4%	100	25.4%	40	10.2%	393
1996	312	72.5%	80	18.6%	38	8.9%	430
1997	285	69.6%	71	17.4%	53	13.0%	409
1998	233	67.0%	65	18.7%	50	14.3%	348[1]
1999	239	65.8%	65	17.9%	59	16.3%	363[2]
2000	169	64.3%	45	17.1%	49	18.6%	263
2001	105	58.0%	40	22.1%	36	19.9%	181
2002	62	70.4%	13	14.8%	13	14.8%	88
2003	54	72.0%	11	14.7%	10	13.3%	75[3]
2004	58	65.9%	17	19.3%	13	14.8%	88
2005	170	63.9%	62	23.3%	34	12.7%	266[4]

[1] One single certification application resulted in the issuance of two individual certifications; thus the total of certifications granted in 1998 amounts to 349.

[2] One single certification application resulted in the issuance of two individual certifications; thus the total of certifications granted in 1999 amounts to 364.

[3] Five separate certification applications for the same employee bargaining unit were granted and simultaneously consolidated resulting in the issuance of a single certification; thus the total number of new certifications granted for a bargaining unit size between 1 and 10 employees is 35 and the total number of certifications granted in 2003 is 71.

[4] A number of applications to certify separate units were amended at some time in the process prior to disposition to certify a consolidated unit(s). A further application was granted and two certifications issued as a result. In total, in 2005, 266 certification applications were granted resulting in 249 certifications being issued.

TABLE 3: Applications to Cancel Certifications Disposed of in 2005 (including comparative figures for 2004)

Type of Applicant (and Application)	Year	Not Proceeded With	Withdrawn	Dismissed	Granted	Total
Filed by Employee(s) (S.33(2))	2005	3	9	10	40	62
	2004	9	2	17	49	77
Filed by Employee(s) (S.142 - "Partial Decertification")[1]	2005	0	2	2	3	7
	2004	1	3	12	8	24
Filed by Employer(s)	2005	0	0	1	3	4
	2004	0	0	2	4	6
Filed by Union(s)	2005	0	2	0	13	15
	2004	0	1	0	0	1
Total	**2005**	**3**	**13**	**13**	**59**	**88**
	2004	**10**	**6**	**31**	**61**	**108**

[1] Applications filed under Section 142 for "Partial Decertification" are included in TABLE 1 under the category "Certification Variances"; therefore, subtracting the number of applications by employees under S.142 from the Total number of applications disposed of in TABLE 3 will equal the number of applications disposed of in TABLE 1 for the "Certification Cancellations" category.

TABLE 4: Reconsiderations Disposed of in 2005

Type Of Application Being Reconsidered	Leave Denied	Dismissed	Granted	Withdrawn	Not Proceeded With	Total
Duty of Fair Representation	12	2	1	0	0	15
"Other" Unfair Labour Practice Complaint Adjudication	4	1	1	1	0	7
Certification	15	3	4	3	0	25
Variance of a Certification	0	2	0	0	0	2
Cancellation of Certification	0	0	0	1	0	1
Common Employer	1	0	0	0	0	1
Alleged Illegal Strikes, Lockouts, Picketing, etc.	8	0	2	1	0	11
Review of Arbitration Award	5	1	0	3	0	9
Interpretation of the Legislation as it Applies to the Collective Bargaining Relationship	3	0	0	0	0	3
Ruling re: First Collective Agreement (s.55)	0	1	0	1	0	2
Ruling re: Procedure	10	0	0	1	0	11
TOTAL	**58**	**10**	**8**	**11**	**0**	**87**

Appellant	Leave Denied	Dismissed	Granted	Withdrawn	Not Proceeded With	Total
Employer(s)	22	5	4	2	0	33
Union(s)	17	3	3	6	0	29
Employee(s)	15	2	0	3	0	20
Filed jointly by Union(s) and Employee(s)	2	0	1	0	0	3
Filed jointly by Union(s) and Employer(s)	2	0	0	0	0	2
TOTAL	**58**	**10**	**8**	**11**	**0**	**87**

Chart 4: Reconsiderations Disposed of in 2005
(Types of Applications Being Reconsidered)

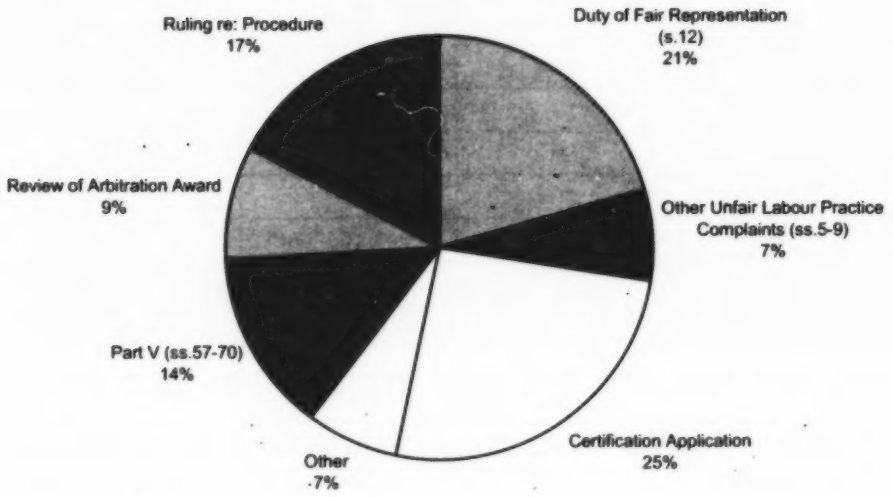


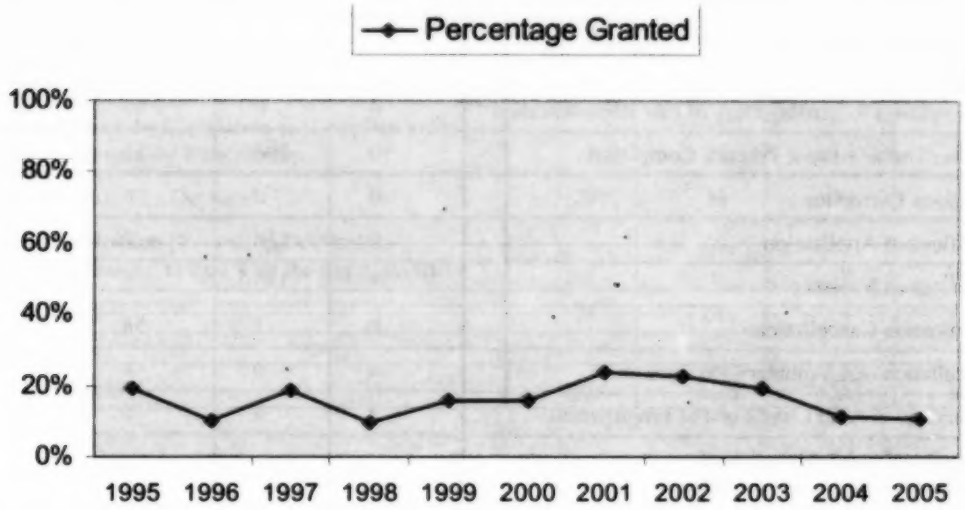
TABLE 5: "Success" Rate of Reconsiderations Disposed of in 1995 to 2005

Year	Total Applications Disposed of	Withdrawn	Processed to a Final Decision	Resulted in a Revision of the Original Decision	"Success" Rate of Reconsiderations
1995	131	16	115	22	19%
1996	87	7	80	8	10%
1997	113	21	92	17	18%
1998	134	20	114	11	10%
1999	150	9	141	22	16%
2000	129	11	118	19	16%
2001	111	13	98	23	23%
2002	92	8	84	19	23%
2003	111	11	100	19	19%
2004	112	6	106	12	11%
2005	87	11	76	8	11%

TABLE 6: "Success" Rate of Reviews of Arbitration Awards Disposed of in 1995 to 2005

Year	Total Applications Disposed of	Withdrawn	Processed to a Final Decision	Resulted in a Revision of the Original Decision	"Success" Rate of Reconsiderations
1995	55	5	50	7	14%
1996	67	8	59	13	22%
1997	66	13	53	8	15%
1998	65	10	55	13	24%
1999	54	11	43	7	16%
2000	69	5	64	15	23%
2001	60	13	47	16	34%
2002	58	4	54	12	22%
2003	55	7	48	10	21%
2004	58	8	50	11	22%
2005	36	4	32	6	19%

"Success" Rate of Reconsiderations



"Success" Rate of Review of Arbitration Award

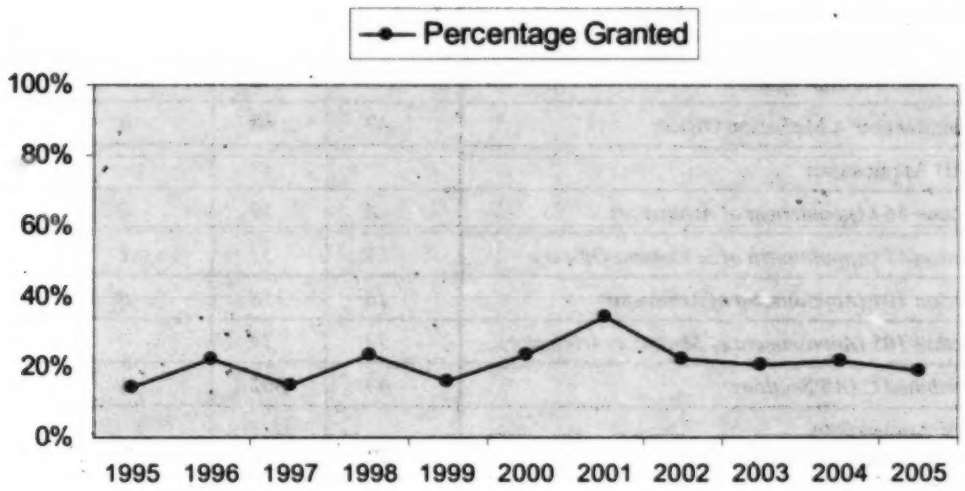


TABLE 7: Applications and Complaints Filed in 2005 Analyzed by Applicant

Type of Application	Filed by Employer(s)	Filed by Union(s)	Filed by Employee(s)	Other	Total[1]
Complaints of Unfair Labour Practices					
Complaints Regarding Internal Union Affairs	0	1	10	0	11
Complaints Regarding Duty to Bargain in Good Faith	2	13	0	0	15
Complaints Regarding Duty of Fair Representation	0	0	99	0	99
Other Unfair Labour Practice Complaints	10	206	11	0	225
Religious Exemption	0	0	6	0	6
Certification Application	0	226	0	0	226
Certification Variance	25	135	5	0	165
Certification Cancellation	0	1	58	0	59
Cancellation of a Voluntary Recognition	0	0	8	0	8
Permission to Alter Conditions of Employment	3	0	0	0	3
Alleged Unlawful Alteration of Employment Terms and Conditions	0	41	1	0	41
Declaration of Successor Status					
Successor Employer	14	46	0	0	58
Successor Union	0	10	0	0	9
Common Employer	2	18	0	0	19
Accreditation Variances	5	0	0	0	5
Alleged Failure to Execute or Comply with Collective Agreement	1	6	0	0	7
First Collective Agreement	3	2	0	0	5
Appointment of a Mediation Officer	47	48	0	0	88
CAAB Applications					
Section 86 (Appointment of Arbitrator)	*6*	*59*	*0*	*0*	*64*
Section 87 (Appointment of Settlement Officer)	*9*	*51*	*1*	*0*	*58*
Section 104 (Appointment of Arbitrator)	*18*	*178*	*0*	*0*	*194*
Section 105 (Appointment of Mediator-Arbitrator)	*14*	*14*	*0*	*0*	*14*
Combined CAAB Sections	**47**	**302**	**1**	**0**	**330**
Part V Applications (Strikes, Lockouts, Picketing, etc.)	115	8	1	0	119
Replacement Workers	0	5	0	0	5
Essential Service Designations	0	0	0	14	14

TABLE 7: Applications and Complaints Filed in 2005 Analyzed by Applicant - continued

Type of Application	Filed by Employer(s)	Filed by Union(s)	Filed by Employee(s)	Other	Total[1]
Last Offer Vote	15	0	0	0	15
Review of Arbitration Award	19	23	7	1	49
Interim Order	9	4	1	0	13
File Order in Supreme Court	35	6	0	4	43
Interpretation of the Legislation as it Applies to the Collective Bargaining Relationship	3	22	4	0	28
Reconsideration of a Decision	29	36	21	0	79
Declaratory Opinion (Excluding Declaratory Opinions Pertaining to Part V of the Legislation)	1	2	0	0	3
Miscellaneous	21	23	4	5	52
TOTAL	**406**	**1184**	**237**	**24**	**1799[1]**

[1] Totals by applicant do not equate with total applications because certain applications were filed jointly, by more than one type of party

TABLE 8: Time Required to Process Certain Applications in 2005

Type of Application	Number of Applications Disposed of[1]	Average Number of Days	Median Number of Days
Unfair Labour Practice Complaints Under S.6 of the *Labour Relations Code* Where a Dismissed Employee is Involved	41	124	50
Complaints Regarding Duty of Fair Representation (S.12)	57	221	123
Certification Applications (Ss.18, 19, 28)	418	170	132.5
Certification Cancellations (S.33(2))	59	35	14
Declaration of Successor Employer (S.35)	69	159	68
Common Employer (S.38)	30	290	205
Review of Arbitration Award (S.99)	36	214	163.5
Interpretation of the Legislation as it Applies to the Collective Bargaining Relationship (S.139)	53	816	219
Reconsideration of a Decision (S.141)	87	113	57

[1] Does not include applications not proceeded with because applicant did not file sufficient information.

TABLE 9: Officer Assignments Completed in 2005

	Assignment Outcome						
Type of Application / Complaint	Settled/ Withdrawn	Resolved Issues / Assisted at Hearing	Narrowed Issues / Assisted at Hearing	To Adjudication (No Informal)	Report of Investigation	Other[1]	Total
Part 5 (ss.57 to 70)[2]	14	2	5	4	0	2	27
Unfair Labour Practice (ss.5 to 11)[3]	49	1	6	14	1	0	71
Certification & Variance to Expand the Bargaining Unit[4]	33	24	24	11	0	3	95
Decertification & "Partial Decertification"[5]	14	6	5	2	0	0	27
Collective Agreement Arbitration (CAAB) (ss.86, 87, 104, 105)[6]	65	0	9	9	0	7	90
Other	15	0	4	10	1	2	32
TOTAL	**190**	**33**	**53**	**50**	**2**	**14**	**342**

[1] Includes outcome 'Consent Order issued': five Consent Orders were issued for Part 5 and Unfair Labour Practice complaints.

[2] Includes complaints regarding strikes, lockouts, picketing, etc.

[3] Excludes duty of fair representation (s.12)

[4] In reports prior to 2001, the number of certification & expanded bargaining unit applications "Settled / Withdrawn" were included in the "Resolved Issues / Assisted at Hearing" assignment outcome category.

[5] Prior to 2003 applications for 'partial decertification' were included under "Other" types of applications.

[6] Reporting of assignments under the Collective Agreement Arbitration provisions of the *Labour Relations Code* first appears in the 2003 LRB Annual Report.

TABLE 10: Requests for Automatic Certification Pursuant to Section 14(4)(f) of the *Labour Relations Code* as a Result of an Alleged Unfair Labour Practice Violation
(Previously Section 8(4)(e) of the *Labour Code* and the *Industrial Relations Act*)

Year	Requested	Granted
1977	25	1
1978	17	1
1979	25	1
1980	22	0
1981	34	2
1982	15	2
1983	18	0
1984	21	3
1985	16	2
1986	18	2
1987	17	0
1988	10	0
1989	10	0
1990	18	3
1991	20	1
1992	32	6
1993	31	2
1994	31	2
1995	35	0
1996	41	1
1997	52	3
1998	40	0
1999	51	0
2000	21	1
2001	9	0
2002	12	3
2003	13	0
2004	8	1
2005	7	1
TOTAL	**669**	**38**

These requests relate to *Other Unfair Labour Practice Complaints* and are not included under Applications for Certification.
Note: Figures for 1993 to 1995 were not included in the Annual Reports for these years.